

Cite as 2009 Ark. 595

SUPREME COURT OF ARKANSAS

No. CR09-530

STATE OF ARKANSAS

APPELLANT

V.

EDWARD JOSHAWAY

APPELLEE

Opinion Delivered December 3, 2009

APPEAL FROM THE PHILLIPS
COUNTY CIRCUIT COURT
[NO. CR06-38]

HON. L.T. SIMES, II, JUDGE

APPEAL DISMISSED.

JIM HANNAH, Chief Justice

The State of Arkansas appeals a decision of the Phillips County Circuit Court dismissing a criminal action against Edward Joshaway based on a violation of Joshaway's right to a speedy trial. This is the second appeal in this case. *See State v. Joshaway*, 373 Ark. 9, 280 S.W.3d 26 (2008) (reversing the circuit court's dismissal of charges due to an allegedly defective arrest warrant). Upon remand, the circuit court again dismissed the charges, concluding that the State failed to bring Joshaway to trial within the time limitations of Arkansas Rule of Criminal Procedure 28.1. The State appeals, citing Arkansas Rule of Criminal Procedure 28.2(b) and arguing that the circuit court erred in dismissing the charges because time under speedy trial began to run anew on the date this court issued its mandate



Cite as 2009 Ark. 595

on the prior appeal.

The State’s right to appeal is limited to that allowed by Arkansas Rule of Appellate Procedure–Criminal 3. *See State v. Hayes*, 366 Ark. 199, 201, 234 S.W.3d 307, 309 (2006). Under Arkansas Rule of Appellate Procedure–Criminal 3(c), the State may appeal a decision of the circuit court where the “the correct and uniform administration of the criminal law requires review by the Supreme Court.”

Rule 28.2(b) provides in relevant part as follows: “When the charge is dismissed upon motion of the defendant and subsequently the charge is reinstated following an appeal, the time for trial shall commence running from the date the mandate is issued by the appellate court.” The State argues that this Rule provides “plain language” setting out the time that speedy trial commences after charges have been reinstated following reversal of a dismissal. We agree.

We construe court rules using the same means and canons of construction used to interpret statutes. *McNabb v. State*, 367 Ark. 93, 97, 238 S.W.3d 119, 122 (2006). We construe a statute just as it reads, giving the words their ordinary and usually accepted meaning. *Bell v. State*, 371 Ark. 375, 390, 266 S.W.3d 696, 708 (2007). In other words, where the language is plain, as the State alleges it is in the present case, there is no need for interpretation. *See State v. Townsend*, 314 Ark. 427, 431, 863 S.W.2d 288, 290 (1993). The



Cite as 2009 Ark. 595

language at issue in Rule 28.2 (b) is clear; therefore, the correct and uniform administration of the criminal law does not require that this court interpret it. On that basis, the State's appeal must be dismissed. We also note that the State argues that the circuit court misapplied the law to the facts in this case. If an appeal by the State includes mixed issues of law and fact, it will not be heard. *Hayes*, 366 Ark. at 202, 201 S.W.3d at 309. The State's appeal is dismissed.

IMBER, J., not participating.

Dustin McDaniel, Att'y Gen., by: David R. Raupp, Sr. Ass't Att'y Gen., for appellant.

Jimmie L. Wilson, for appellee.