

Gary Lee WILLIAMS *v.* STATE of Arkansas

CR 80-174

612 S.W. 2d 115

Supreme Court of Arkansas
Opinion delivered March 2, 1981

1. CRIMINAL PROCEDURE — WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW BY TRIAL COURT MANDATORY. — The requirements of Rule 37.3, A. R. Crim. P., Ark. Stat. Ann. Vol. 4A (Repl. 1977) that the trial court enter findings of fact and conclusions of law are mandatory, and the rule requires written findings so that there can be a meaningful review.
2. CRIMINAL PROCEDURE — POST-CONVICTION PROCEEDING — REVIEW. — On review of a Rule 37 proceeding, the appellate court determines whether the findings of fact by the trial court are supported by a preponderance of the evidence and affirms unless the findings are clearly erroneous.

Appeal from Jackson Circuit Court, *Andrew Ponder*, Judge; reversed and remanded.

E. Alvin Schay, State Appellate Defender, by: *Jack Kearney*, Deputy Defender, and *Wayne Boyce*, Trial Counsel, for appellant.

Steve Clark, Atty. Gen., by: *Arnold M. Jochums*, Asst. Atty. Gen., for appellee.

DARRELL HICKMAN, Justice. This is an appeal from a hearing held in the Jackson County Circuit Court on a petition by Gary Lee Williams for post-conviction relief pursuant to Rules of Crim. Proc., Rule 37.

Williams had pled guilty to capital felony murder, rape, kidnapping, and use of a firearm in connection with a felony on May 13, 1976. The petition generally alleges that Williams' plea was void because it was entered as a result of duress and without comprehension of the consequences.

After a lengthy hearing on the matter the trial court

denied relief. We cannot reach the merits of this matter because the trial court did not enter findings of facts and conclusions of law as required by Rules of Crim. Proc., Rule 37.3. We have held without exception that this rule is mandatory and requires written findings. *State v. Maness*, 264 Ark. 190, 569 S.W. 2d 665 (1978); *Robinson & Williams v. State*, 264 Ark. 186, 569 S.W. 2d 662 (1978).

On review, we determine whether these findings are supported by a preponderance of the evidence. Unless the findings are clearly erroneous, they will be affirmed. Therefore, we must have specific findings regarding the facts in the case and the conclusions of law so that there can be a meaningful review of those findings.

Reversed and remanded.

DUDLEY, J., not participating.
