

Leon PHILLIPS, Jr. v. MARIANNA FORD TRACTOR,
INC.

86-112

716 S.W.2d 763

Supreme Court of Arkansas
Opinion delivered September 29, 1986

APPEAL & ERROR — FAILURE TO ORDER TRANSCRIPT — DISMISSAL
PROPER. — Where the appellant files a notice of Appeal and
designates the entire record, but makes no mention of ordering a
transcript, nor does he order the transcript or explain why it was not
ordered, even though an extension was granted for filing the
transcript, the appeal will be dismissed because of the appellant's
unexplained failure to substantially comply with the requirements
of Rule 3(e), Arkansas Rules of Appellate Procedure.

Motion to dismiss appeal; motion granted.

Wilson, Bell & Neal Law Office, by: *J. L. Wilson*, for
appellant.

Daggett, Van Dover, Donovan & Cahoon, by: *Robert J.
Donovan*, for appellee.

PER CURIAM. Appellee Marianna Ford Tractor, Inc. has
moved to dismiss the appeal of Leon Phillips, Jr. for failure to
comply with Rule 3(e) of our Rules of Appellate Procedure.
Phillips's Notice of Appeal, filed on December 31, 1985, made no

mention of having ordered a transcript of the testimony. The Designation of the Contents of the Record, filed the same day, designated "all the pleadings, all testimony, all evidence, and all rulings and orders" of the trial court as the record on appeal.

Appellee further alleges that on February 28, 1986 Phillips filed a motion for an extension of time for filing the record, and on March 4, an order was entered extending the time for six months. According to a letter from the court reporter, Phillips still had not ordered the transcript as of March 5.

The allegations of appellee's motion to dismiss, filed on July 10, 1986, have not been denied by Phillips, the only response is a motion to file a belated brief filed July 31, 1986.

[1] In *Hudson v. Hudson*, 277 Ark. 183, 641 S.W.2d 1 (1982), we dismissed an appeal where the entire record was designated, the Notice of Appeal (filed September 21, 1981) failed to state the transcript had been ordered, and the transcript was not in fact ordered from the court reporter until December 7, 1981. The exact situation exists here. There having been an unexplained failure to substantially comply with the requirements of Rule 3(e) of the Arkansas Rules of Appellate Procedure, the appeal is dismissed.
