Richard Wayne SNELL v. STATE of Arkansas

CR 85-206   717 S.W.2d 818

Supreme Court of Arkansas
Opinion delivered October 20, 1986

APPEAL & ERROR — SUPPLEMENTATION OF RECORD — PARTIES MAY
    PETITION COURT FOR PERMISSION TO FILE SUPPLEMENTAL BRIEF. —
    In a capital felony murder case, where the state produced a
    statement of a potential witness for the trial court's inspection and
    the trial judge pronounced the statement free of exculpatory
    information but refused the defendant's request to have it appended
    to the record so that it could be reviewed on appeal, it is ordered that
    the record on appeal be supplemented to include the statement, and
    the parties may petition the Supreme Court for permission to file a
    supplemental brief.

    Appeal from Miller Circuit Court; *Phillip B. Purifoy*,
Judge; Writ of Certiorari issued.

    Attaway & Shumaker, by: *Rick C. Shumaker*; and *Dowd,
Harrelson & Moore*, by: *Marshall Moore*, for appellant.

    Steve Clark, Att'y Gen., by: *Jack Gillean*, Asst. Att'y Gen.,
for appellee.

    PER CURIAM. Appellant was convicted of the capital felony
murder of William Stump and sentenced to death by lethal
injection. Among his many points of error is a claim that
information was withheld in violation of A.R.Cr.P. Rule 17.1(d)

tending to negate the guilt of the appellant. The information was allegedly contained in a statement of John Thomas Holmer. The state denies the claim.

During the trial the state produced the Holmer statement for the trial court's inspection. When the trial judge pronounced the statement free of exculpatory information the defense asked that it be appended to the record so that it could be reviewed on appeal. That request was denied.

[1] In view of the nature of the case, we think the proper course would have been to include the material in the record and we now order that the record on appeal be supplemented to include the statement of John Thomas Holmer. See Rule 6(e), Arkansas Rules of Appellate Procedure. The parties may petition this Court for permission to file a supplemental brief.