

## Pier L. CASOLI v. STATE of Arkansas

CR 88-149

763 S.W.2d 650

Supreme Court of Arkansas  
Opinion delivered January 23, 1989

1. COURTS — APPELLATE AUTHORITY OF CIRCUIT COURTS. — While Ark. Code Ann. § 16-19-1105 (1987) speaks to appeals from decisions of justices of the peace, it applies to appeals from municipal courts, giving circuit courts the authority to try appealed cases de novo.
2. APPEAL & ERROR — INTERLOCUTORY APPEAL FROM MUNICIPAL COURT TO CIRCUIT COURT — CASE CORRECTLY REMANDED. — Where appellant attempted to appeal, to circuit court, a municipal court order denying a motion to dismiss for lack of a speedy trial when the record showed no trial had occurred in municipal court, and no judgment had been entered, providing nothing for the circuit court to try de novo, the circuit court correctly remanded the case to the municipal court on the ground that the municipal court had not entered an appealable order.

Appeal from Madison Circuit Court; *Mahlon Gibson*, Judge; appeal dismissed.

*Isaacs & Isaacs*, by: *William B. Isaacs*, for appellant.

*Steve Clark*, Att'y Gen., by: *Olan W. Reeves*, Asst. Att'y Gen., for appellee.

DAVID NEWBERN, Justice. This case presents the question whether an appeal of an order denying a motion to dismiss for lack of a speedy trial may be taken from a municipal court to a circuit court as an interlocutory appeal. We hold that it may not.

[1] The appellate authority of the circuit court with respect to appeals from municipal courts is to try the case appealed de novo. Ark. Code Ann. § 16-19-1105 (1987) [formerly Ark. Stat. Ann. § 26-1308]. While the statute speaks to appeals from decisions of justices of the peace, it applies to appeals from municipal court misdemeanor convictions. See *Johnston v. City of Pine Bluff*, 258 Ark. 346, 525 S.W.2d 76 (1975).

[2] The circuit court remanded this case to the municipal court on the ground that the municipal court had not entered an

appealable order. The appellant has attempted to appeal to this court the circuit court's remand order. The record shows that no trial has occurred in the municipal court, no judgment has been entered, and thus there is nothing for the circuit court to try de novo. While the circuit court might have treated the attempted appeal as a request for a writ of prohibition, we know of no law requiring him to do so. The circuit court was correct.

Appeal dismissed.

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