

Tyree JONES v. Ms. McCOOL, Records Supervisor, and
Charlotte Sumner, Records Supervisor
Arkansas Department of Correction

94-353

886 S.W.2d 633

Supreme Court of Arkansas
Opinion delivered November 14, 1994

1. APPEAL & ERROR — CRITICAL DOCUMENT NOT ABSTRACTED — COURT COULD NOT CONSIDER ISSUES RAISED. — Where the appellant failed to include an abstract of any part of the record in the appellant's brief, the judgment was affirmed for noncompliance with Supreme Court Rule 4-2 (a)(6) which requires the appellant to abstract that part of the record which is material to the points argued in the appellant's brief; the failure to abstract a critical document precluded the court from considering issues concerning it.
2. APPEAL & ERROR — APPELLANT MOVED TO AMEND BRIEF TO INCLUDE ABSTRACT — MOTION TO AMEND FILED AFTER APPELLEE FILED ITS BRIEF TOO LATE. — Where, nearly a month after the appellee filed its brief, the appellant filed a motion seeking to amend its brief to include an abstract, the motion was denied; once the appellee has filed its brief, it is too late to file a motion to amend the appellant's brief.

Appeal from Jefferson Circuit Court; *Fred D. Davis*, Judge; affirmed.

Appellant, pro se.

Winston Bryant, Att'y Gen., by: *Clint Miller*, Senior Asst. Att'y Gen., for appellee.

PER CURIAM. The appellant Tyree Jones, who is in the custody of the Arkansas Department of Correction by virtue of multiple felony convictions, filed a *pro se* petition for writ of mandamus and declaratory judgment against two persons employed

in the Records Office of the Department. The circuit court denied the petition, and appellant brings this appeal.

[1, 2] The appellant has failed to include an abstract of any part of the record in the appellant's brief. Our Rule 4-2 (b)(2) provides that a judgment may be affirmed for noncompliance with Rule 4-2 (a)(6) which requires the appellant to abstract that part of the record which is material to the points argued in the appellant's brief. The failure to abstract a critical document precludes this court from considering issues concerning it. *Porchia v. State*, 306 Ark. 443, 815 S.W.2d 926 (1991). The abstracting requirement applies to those appellants who proceed *pro se*. *Markham v. State*, 303 Ark. 438, 798 S.W.2d 58 (1990). Nearly a month after the appellee state filed its brief, appellant filed a motion seeking to amend the brief to include an abstract. The motion is denied. Once the appellee has filed its brief, it is too late to file a motion to amend the appellant's brief. As the abstract in this case is totally deficient, we affirm.

Affirmed.
