

Joe Samuel BROWN v. STATE of Arkansas
CR 88-187 767 S.W.2d 313
Supreme Court of Arkansas
Opinion delivered April 17, 1989]
[Rehearing denied May 15, 1989.]

APPEAL & ERROR — JUDGMENT IS AN ESSENTIAL COMPONENT OF ABSTRACT — FAILURE TO ABSTRACT — CASE AFFIRMED. — The judgment or decree appealed from is an essential component of the abstract; where appellant did not abstract the court's order denying his post-conviction relief petition, the appellate court affirmed.

Appeal from Jefferson Circuit Court; *Berlin C. Jones*, Judge; affirmed.

Morris & Hodge, by: *Henry C. Morris*, for appellant.

Steve Clark, Att'y Gen., by: *Jeannette Denhamclendon*, Asst. Att'y Gen., for appellee.

JACK HOLT, JR., Chief Justice. Appellant Joe Samuel Brown pleaded guilty to first degree battery and was sentenced to a five-year term. He filed a Rule 37 petition for post-conviction relief, which was denied by Judge Berlin C. Jones without an evidentiary hearing. On appeal, Brown contends the Rule 37 court erred in failing to (1) conduct an evidentiary hearing; (2) obtain a transcript of prior proceedings; and (3) grant his petition.

[1] Ordinarily, the judgment or decree appealed from is an essential component of the abstract. *Davis v. Wingfield*, 297 Ark. 57, 759 S.W.2d 219 (1988). Because Brown did not abstract the court's order denying the petition, we must affirm. Ark. Sup. Ct. R. 9(d).

Affirmed.