

Calvin Lashawn CAMPBELL v. STATE of Arkansas

CR 01-1181

76 S.W.3d 271

Supreme Court of Arkansas
Opinion delivered May 30, 2002

1. APPEAL & ERROR — INSUFFICIENT ABSTRACT — APPELLANT GIVEN OPPORTUNITY TO CURE DEFICIENCIES UNDER NEW RULE. — Under Ark. Sup. Ct. R. 4-2 (2001), cases in which the record is lodged in the Arkansas Supreme Court or Arkansas Court of Appeals on or after September 1, 2001, will no longer be affirmed because of insufficiency of the abstract without the appellant first having the opportunity to cure the deficiencies.
2. APPEAL & ERROR — APPELLANT FAILED TO ADEQUATELY ABSTRACT RECORD SUFFICIENT FOR MEANINGFUL REVIEW OF ISSUES ON APPEAL — REBRIEFING ORDERED. — Where appellant failed to adequately abstract the record in order for the supreme court to conduct a meaningful review of appellant's issues on appeal, appellant was ordered to file a substituted abstract, addendum, and brief to conform to Rule 4-2(a)(5) and (7); mere modifications of the original brief will not be accepted; if appellant fails to file a complying abstract, addendum, and brief within the time prescribed, the judgment or decree may be affirmed for noncompliance with the Rule [Ark. Sup. Ct. R. 4-2(b)(3)].

Appeal from Pulaski Circuit Court; *John W. Langston*, Judge; rebriefing ordered.

Appellant, pro se.

Mark Pryor, Att'y Gen., by: *Brad Newman*, Ass't Att'y Gen., for appellee.

PER CURIAM. Calvin Campbell was convicted by a jury of residential burglary and battery in the first degree and was sentenced to twenty years on each count; he was also charged with the rape of a nine-months' pregnant woman in connection with that incident, but the jury deadlocked on that charge, forcing the trial judge to declare a mistrial. The court of appeals affirmed

appellant's convictions and sentences in *Campbell v. State*, CACR 00-543 (Ark. App. January 31, 2001). Subsequently, appellant filed a petition for postconviction relief pursuant to Ark. R. Crim. P. 37. The circuit court denied appellant's petition without a hearing. This appeal followed.

[1, 2] As the State has pointed out in its brief, appellant has failed to adequately abstract the record for us to conduct a meaningful review of appellant's issues on appeal. Prior to this court's modification of Ark. Sup. Ct. R. 4-2, appellant's claims would not have been considered because of his deficient abstract. However, under the modified rule, cases in which the record is lodged in the Arkansas Supreme Court or Arkansas Court of Appeals on or after September 1, 2001, will no longer be affirmed because of the insufficiency of the abstract without the appellant first having the opportunity to cure the deficiencies. See *In re: Modification of the Abstracting System — Amendments to Supreme Court Rules 2-3, 4-2, 4-3, 4-4*, 345 Ark. Appx. 626, (2001) (*per curiam*). Therefore, appellant has fifteen days from the date of this opinion to file a substituted abstract, Addendum, and brief to conform to Rule 4-2(a)(5) and (7). See *In re: Modification of the Abstracting System, supra*; Ark. Sup. Ct. R. 4-2(b)(3). Mere modifications of the original brief will not be accepted. *Id.* According to Rule 4-2(b)(3), if appellant fails to file a complying abstract, Addendum and brief within the prescribed time, the judgment or decree may be affirmed for noncompliance with the Rule.

Rebriefing ordered.
