

## CALDWELL v. STATE.

4280

168 S. W. 2d 807

Opinion delivered February 22, 1943.

1. CRIMINAL LAW.—Alleged errors relating to matters occurring during the progress of the trial can be brought to the attention of the Supreme Court by bill of exceptions only.
2. CRIMINAL LAW—BILL OF EXCEPTIONS.—Where appellant was given 45 days in which to prepare and present to the trial court a bill of exceptions a bill not presented within that time cannot be considered by the appellate court.
3. CRIMINAL LAW.—Since there is no bill of exceptions and no errors appear in the record proper, the judgment sentencing appellant to the penitentiary for carnal abuse will be affirmed.

Appeal from Pike Circuit Court; *Minor W. Millwee*, Judge; affirmed.

*Alfred Featherston*, for appellant.

*Guy E. Williams*, Attorney General, and *Earl N. Williams*, Assistant Attorney General, for appellee.

SMITH, J. Appellant seeks the reversal of the judgment, from which is this appeal, sentencing him to a term in the penitentiary upon his trial under an information charging him with the crime of carnal abuse.

None of the errors assigned for the reversal of the judgment appear of record, but all relate to matters occurring during the progress of the trial, which may be brought to our attention for review only by a bill of exceptions.

The motion for a new trial was overruled September 30, 1942, at which time appellant was allowed 45 days in which to prepare and present a bill of exceptions. A bill of exceptions was prepared and presented to the trial judge for approval, but not within the time allowed for that purpose. It may not, therefore, be considered by us, and, as no error otherwise appears, the judgment must be affirmed. This case is ruled by the opinion in the case of *Chandler v. State*, 205 Ark. 74, 167 S. W. 2d 142, and the cases there cited. A case more recent even to the same effect is *Westerdale v. State*, 205 Ark. 100, 168 S. W. 2d 615.

The judgment must, therefore, be affirmed, and it is so ordered.

---