

JOHN F. WELLS *v.* PARAGON PRINTING CO. ET AL

5-5342

462 S. W. 2d 471

Opinion delivered February 1, 1971

APPEAL & ERROR—AFFIRMANCE UNDER SUPREME COURT RULE 9 (D)—FAILURE TO ABSTRACT RECORD.—Consideration of the merits involving validity of an assertedly void state printing contract could not be reached and the case affirmed under Supreme Court Rule 9 (d) where appellant failed to adequately abstract the testimony and documentary evidence, and it would be impractical to require members of the Supreme Court to individually examine the transcript in order to decide the questions argued.

Appeal from Pulaski Chancery Court, First Division, *Murray O. Reed*, Chancellor; affirmed.

*R. Eugene Bailey*, for appellant.

*Wright, Lindsey & Jennings*, for appellees.

OLIVER M. CLEGG, Special Chief Justice. This is a taxpayer's suit brought by appellant, on his own behalf and for all others similarly situated, to cancel a contract made by the State with the appellee, Paragon Printing

Company, for the printing of the decisions of this Court during 1968 and 1969. The other appellees are State officials having statutory duties with respect to State contracts.

The Chancellor, after a trial on the issues, dismissed appellant's complaint and he appeals.

Appellant contends here, as in the lower court, that the contract contains provisions violative of statutory authority (Ark. Stats. § 22-223) and is "indefinite and ambiguous" and, therefore, void.

We cannot reach a consideration of the merits because appellant has failed to comply with Rule 9 (d) of this Court. Not only is the abstract of testimony inadequate, none of the documentary evidence is abstracted, including the contract alleged to be void as containing illegal provisions and being "indefinite and ambiguous."

In these circumstances, it would be impossible for the members of the Court to decide the questions argued without individually examining the transcript. The practical reasons which require compliance with Rule 9 (d) have been stated many times, and make further discussion here superfluous. *Vire v. Vire*, 236 Ark. 740, 368 S. W. 2d 265.

Affirmed.

WILLIAM I. PREWETT and JOHN STROUD, Special Justices, join in this opinion.

HARRIS, C. J., and FOGLEMAN and BYRD, JJ., not participating.