

Patrick ROMES v. STATE of Arkansas

CR 02-1026

139 S.W.3d 519

Supreme Court of Arkansas
Opinion delivered December 18, 2003

1. APPEAL & ERROR — INCOMPLETE RECORD — MEANINGFUL REVIEW NOT POSSIBLE. — Without the complete record of jury selection and *voir dire*, the supreme court could not conduct a meaningful review of the trial court's denial of appellant's motion to quash the jury panel, as the supreme court is required to do pursuant to Ark. Sup. Ct. R. 4-3(h).
2. APPEAL & ERROR — INCOMPLETE RECORD — ORDER TO COMPLETE RECORD. — The supreme court ordered the circuit clerk and the court reporter to correct any and all omissions in the record and certify to the supreme court a true and complete transcript of the record within thirty days of the date of the order.

Order to Complete Record.

Tim Cullen, for appellant.

Mike Beebe, Att'y Gen., by: *Brent P. Gasper*, Ass't Att'y Gen., for appellee.

PER CURIAM. Appellant Patrick Romes appeals from the judgment of the Pulaski County Circuit Court convicting him of capital murder and aggravated robbery and sentencing him to respective terms of life imprisonment without parole and twenty years' imprisonment. Following the lodging of the record in this court, the State filed a petition for writ of certiorari to complete the record, particularly to include the transcripts of various pretrial hearings. We granted the State's petition on July 3, 2003. On July 31, 2003, the writ was returned and a supplemental record was lodged with our clerk. Despite this supplementation, the record on appeal remains incomplete in that it does not contain a transcript of the entire proceedings, as requested in Appellant's notice of appeal.

Arkansas Supreme Court Rule 4-3(h) provides that in cases where the appellant received a sentence of death or life imprisonment, this court must review all errors prejudicial to the appellant

in accordance with Ark. Code Ann. § 16-91-113(a) (1987). This requires us to examine all rulings adverse to the appellant on all objections, motions, and requests made by either party. The current state of the record in this case does not allow for such an examination. Specifically, the record does not contain a complete transcript of jury selection and *voir dire*, nor does it contain the opening or closing statements of counsel for the State or counsel for Appellant.

[1] The omission of the complete jury selection and *voir dire* is particularly troubling, given that the partial record now before us reveals that defense counsel made a motion to quash the jury panel on the ground that it was not representative of the community, because there were only three African-Americans on the panel. Without the complete record of jury selection and *voir dire*, we cannot conduct a meaningful review of the trial court's denial of this motion, as we are required to do pursuant to Ark. Sup. Ct. R. 4-3(h).

[2] Accordingly, we hereby order the circuit clerk and the court reporter to correct any and all omissions in the record and certify to this court a true and complete transcript of the record within thirty days of this date.

It is so ordered.

ARNOLD, C.J., not participating.