

John SANDERS v. STATE of Arkansas

90-165

798 S.W.2d 926

Supreme Court of Arkansas
Opinion delivered December 10, 1990

APPEAL & ERROR — FAILURE TO INCLUDE RECORD SUFFICIENT TO SHOW ERROR — CASE AFFIRMED. — Where the record on appeal was insufficient to show error, the case was affirmed.

Appeal from Pulaski Probate Court; *Angela Jegley*, Probate Judge; affirmed.

William R. Simpson, Jr., Public Defender, by: *Ted Thomas*, Deputy Public Defender, for appellant.

Steve Clark, Att'y Gen., by: *Sandra Bailey Moll*, Asst. Att'y Gen., for appellee.

DALE PRICE, Justice. The appellant, John Sanders, appeals from the probate court's denial of his motion to dismiss. He contends the probate court lost jurisdiction to commit him to the Arkansas State Hospital due to the failure of the Arkansas Department of Human Services (ADHS) to file a psychiatric or psychological report within thirty days following the entry of his order of acquittal pursuant to Ark. Code Ann. § 5-2-314 (Supp. 1989). We are unable to address this argument on its merits because the record does not contain the circuit court's order of acquittal. *Drone v. State*, 303 Ark. 607, 798 S.W.2d 434 (1990).

[1] The record consists of the report of ADHS dated February 27, 1990, proceedings of the commitment hearing conducted on March 8, 1990, and the probate court's order of commitment of March 9, 1990. It is well settled that an appellant must bring up a record sufficient to show the trial court was wrong. *Malone v. State*, 294 Ark. 376, 742 S.W.2d 945 (1988).

The probate court's denial of the appellant's motion to dismiss is therefore affirmed.

Affirmed.