

STATE of Arkansas *v.* Murray ARMSTRONG

97-1565

960 S.W.2d 451

Supreme Court of Arkansas  
Opinion delivered January 29, 1998

## APPEAL &amp; ERROR — MOTION FOR CLARIFICATION GRANTED. —

Granting the State's motion for clarification regarding whether an assignment order in appellee's three criminal cases covered the adjudication of appellee's habeas corpus petition, the supreme court declared that if there were a recusal by all of the circuit judges in the judicial district, the court would follow the procedure set forth in Ark. Code Ann. § 16-10-101(b) (1987), whereby the Chief Justice would assign a special judge to hear the habeas corpus matter.

Motion for Clarification; granted.

*Winston Bryant*, Att'y Gen., by: *O. Milton Fine II*, Asst. Att'y Gen., for appellant.

*Sam Heuer*, for appellee.

PER CURIAM. The State has filed a motion for clarification inquiring about the presiding trial judge in a petition for writ of habeas corpus, Case No. LCIV 97-98-3, filed by appellee Murray Armstrong in Lincoln County Circuit Court on October 8, 1997.

Appellee had been previously charged by felony information in Lincoln County Circuit Court with multiple counts of theft of property in Case Nos. LCR 96-6-1, LCR 96-17-1, and LCR 96-18-1. After all of the circuit judges in the Eleventh Judicial District recused from these cases, the Chief Justice, pursuant to Ark. Code Ann. § 16-10-101(b) (1987), assigned the Hon. John Cole of the Seventh Judicial Circuit to hear the cases. The assignment order, No. 97-035, was entered on January 31, 1997.

When appellee filed the petition for writ of habeas corpus at issue, the case was assigned to the Third Division of Lincoln County Circuit Court. This case, No. LCIV 97-98-3, was then merely forwarded to Judge Cole pursuant to Assignment Order No. 97-035.

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[1] The State now asks us to clarify whether Assignment Order 97-035 covers the adjudication of appellee's habeas corpus petition. If there is a recusal by all of the circuit judges in the Eleventh Judicial District, we will follow the procedure as set forth in Ark. Code Ann. § 16-10-101(b) (1987), whereby the Chief Justice will assign a special judge to hear LCIV 97-98-3.

Motion granted.

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