

Andra GAINES v. STATE of Arkansas

CR 99-88

994 S.W.2d 938

Supreme Court of Arkansas
Opinion delivered July 22, 1999

APPEAL & ERROR — PETITION FOR INSTRUCTIONS — REMANDED TO TRIAL COURT TO SETTLE RECORD. — Where appellant petitioned for instructions regarding an incomplete record, the supreme court remanded the matter to the trial court to settle the record regarding an omitted suppression hearing.

Petition for Instructions; remanded to trial court to settle the record.

Donald A. Forrest, for appellant.

No response.

PER CURIAM. Appellant Andra Gaines, through his attorney Donald A. Forrest, has filed a petition asking this court for instructions regarding the incomplete record in this matter. Appellant previously petitioned this court for a writ of certiorari to complete the record with transcripts of a pretrial hearing held on May 9, 1997, and a suppression hearing held on May 13, 1997. This court granted Appellant's petition on May 13, 1999. The writ was returned on June 7, 1999; however, the completed record contained the May 9 pretrial hearing, but not the May 13 suppression hearing.

Rather than requesting further delay, Mr. Forrest filed Appellant's abstract and brief in accordance with the original briefing schedule. Because the record did not contain the May 13 suppression hearing, Appellant's abstract does not contain any reference to that hearing. Appellant asserts that this hearing is necessary to properly pursue his appeal.

[1] Accordingly, we remand this matter to the trial court to settle the record regarding the May 13 suppression hearing. *See* Ark. R. App. P.—Civ. 6. Once the record has been settled and filed with our Clerk, the Clerk will set a new briefing schedule for substitution of the abstract and brief previously filed by Mr. Forrest.