

Daniel Lon GRAHAM *v.* STATE of Arkansas

CR 78-36

611 S.W. 2d 514

Supreme Court of Arkansas
February 9, 1981

1. APPEAL & ERROR - TRANSCRIPT - RECONSTRUCTION OF RECORD - PROVISION FOR MEANS TO PREPARE BYSTANDER'S BILL. - Where the Supreme Court allowed a belated appeal and appointed an attorney for the appellant several years after his conviction, but the trial transcript was lost, or otherwise misplaced, the Supreme Court provided a means for appellant's attorney to contact people to prepare a bystander's bill.
2. APPEAL & ERROR - TRANSCRIPT - RECONSTRUCTION OF RECORD FOR APPEAL MUST TAKE PLACE IN TRIAL COURT. - The matter of reconstruction of a record cannot be conducted in the Supreme Court, but must take place in the lower court.

Motion for clarification; motion granted.

Thomas Carpenter, for petitioner.

Steve Clark, Atty. Gen., for respondent.

PER CURIAM. The defendant, Daniel Lon Graham, was convicted in the Circuit Court of Prairie County of kidnapping for ransom, and a belated appeal was allowed. The State failed to produce the transcript within 90 days and the defendant petitioned to vacate the conviction. That was denied in *Graham v. State*, 264 Ark. 489, 572 S.W. 2d 385 (1978), a per curiam order.

The per curiam order recites the reasons the State has not provided the defendant a transcript and cites the applicable statute for the reconstruction of the record.

Defendant now files a motion for clarification. As this Court appointed the attorney for the defendant, and has requested his services, we feel some obligation to provide a means of contacting people to prepare a bystander's bill. The attorney for the defendant should contact the Attorney General who will make a telephone available for contacting witnesses. Our intent is that both parties can contact the witnesses at the same time. The Prosecuting Attorney of the

District shall be notified in order to be present for the telephone conversations if desired.

This opinion is not binding on any substantive matter and the actual reconstruction of the record cannot be conducted in this court. The reconstruction must take place in the lower court.
