

LOYD HENRY BYRD ET AL *v.* STATE OF ARKANSAS

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464 S. W. 2d 565

Opinion delivered March 22, 1971

CRIMINAL LAW—APPEAL & ERROR—DECISIONS REVIEWABLE.—Appeal from a manslaughter conviction could not be considered on its merits where the trial court denied appellants' prayer for appeal and they failed to apply to the Supreme Court for appeal. [Ark. Stat. Ann. § 43-2709.]

Appeal from Jefferson Circuit Court, *Henry W. Smith*, Judge; dismissed.

*E. W. Brockman Jr.* and *W. Harold Flowers*, for appellants.

*Ray Thornton*, Attorney General; *Garner L. Taylor Sr.*, Asst. Atty. Gen., for appellee.

LYLE BROWN, Justice. The appellants, Loyd Henry Byrd and Calvin Ford, were convicted of voluntary man-

slaughter. From that conviction they have here lodged a transcript. Appellants asked the trial court for an appeal and that prayer was denied. They did not thereafter apply to this court for an appeal, which procedure is authorized by Ark. Stat. Ann. § 43-2709. The same situation was present in *McKine v. State*, 242 Ark. 384, 413 S. W. 2d 860 (1967). We there held that the granting of an appeal in criminal cases in accordance with the statutory procedure is a prerequisite to our consideration of the case.

If we were to reach the case on its merits a majority of the court would affirm.

Dismissed.

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