

Robert Lee SPARKMAN *v.* STATE of Arkansas

CR 04-268

158 S.W.3d 123

Supreme Court of Arkansas
Opinion delivered April 8, 2004

1. APPEAL & ERROR — MOTION FOR RULE ON CLERK — NOT CONSIDERED WHERE PARTIAL RECORD WAS TIMELY FILED. — Because the partial record was timely filed, the supreme court would not consider the motion for rule on clerk.
2. APPEAL & ERROR — PARTIAL LODGING OF RECORD AUTHORIZED — WRIT OF CERTIORARI ISSUED. — The supreme court authorized the lodging of the partial record in this case and issued a writ of certiorari directing the circuit court reporter to complete and file the transcript in the matter within thirty days.

Petition for Writ of Certiorari; granted.

Jeff Kearney, for appellant.

No response.

PER CURIAM. Appellant, Robert Lee Sparkman, by and through his attorney, Jeff Kearney, has filed a motion for rule on clerk. The record reflects that appellant was convicted of rape and sentenced to eighteen years in the Arkansas Department of Correction. The judgment and commitment order was filed on August 6, 2003. Appellant filed a timely notice of appeal on September 2, 2003.

[1] On November 25, 2003, the trial court entered an order extending the time to file the record on appeal until March 6, 2004. Because March 6, 2004, fell on a Saturday, the time for filing the record was extended to Monday, March 8, 2004. Ark. R. App. P.—Civ. 9. A partial record was tendered with this court's clerk on March 8, 2004, contemporaneous with the filing of the motion for rule on clerk. Because the partial record was timely filed, we will not consider the motion for rule on clerk. *Franklin v. State*, 318 Ark. 687, 886 S.W.2d 633 (1994). However, in his motion, appellant prays that this court authorize the lodging of the appeal herein on the basis of the partial record, and that the court issue a writ of certiorari, granting the court reporter thirty days within which to complete the record on appeal.

[2] We authorize the lodging of the partial record in this case and issue a writ of certiorari directing Sharon L. Fields, Official Court Reporter for the Circuit Court, Division II, Nineteenth District West, to complete and file the transcript in this matter within thirty days of the date of this order.