

Joe NEWTON *v.* STATE of Arkansas

CR 05-1247

234 S.W.3d 882

Supreme Court of Arkansas
Opinion delivered May 4, 2006

RECORDS — INCOMPLETE RECORD — RECORD ORDERED TO BE SUPPLEMENTED. — Appellant sought review of the circuit court's denial of his motion to suppress two videotapes, which videotapes were not in the record on appeal and were retained by the court reporter; where appellant had designated the entire record as the record on appeal, and where appellant received a life sentence such that the supreme court had to review the entire record for all errors prejudicial to the appellant pursuant to Ark. Sup. Ct. R. 4-3(h) and Ark. Code Ann. § 16-91-113(a), the supreme court ordered the clerk of the circuit court and the court reporter to supplement the record with the two videotapes.

Appeal from Ashley Circuit Court; *Samuel B. Pope*, Judge; supplementation of the record ordered.

Robinson & Associates, P.A., by: *Greg Robinson*, *Luke Zakrzewski*, and *Bryan Achom*, for appellant.

Mike Beebe, Att'y Gen., by: *Vada Berger*, Ass't Att'y Gen., for appellee.

PER CURIAM. [1] Appellant Joe Newton appeals from his conviction of capital murder and life sentence in connection with the stabbing death of Gregory Parker. Newton's sole point

on appeal is that the circuit court erred in denying his motion to suppress. We are unable to address the merits of Newton's appeal because the record is incomplete. Among the evidence Newton sought to have suppressed were two videotapes; however, as pointed out by the State, the videotapes are not in the record on appeal, having been retained by the court reporter. In his Notice of Appeal and Designation of Record, Newton expressly designated the entire record as the record on appeal, including "all proceedings, exhibits, evidence, and testimony." In addition, pursuant to Supreme Court Rule 4-3(h), when the sentence is death or life imprisonment, the court must review the entire record for all errors prejudicial to the appellant in accordance with Ark. Code Ann. § 16-91-113(a). We hereby order the Clerk of the Circuit Court of Ashley County and the court reporter to supplement the record with the two videotapes.
