

SUPREME COURT OF ARKANSAS

No. CR 12-1128

STATE OF ARKANSAS

APPELLANT

V.

KENDRICK ROBINSON

APPELLEE

Opinion Delivered February 21, 2013

DISSENT ON THE GRANT OF
UNOPPOSED MOTION TO
CONSOLIDATE APPELLATE
RECORDS FOR PURPOSES OF
BRIEFINGDISSENTING OPINION.**KAREN R. BAKER, Associate Justice**

It is unnecessary to consolidate Robinson's appellate records, therefore, I would deny the motion. This is an appeal returning to this court after our September 27, 2012, dismissal. Rule 4-2(a)(5)(C) of the Rules of the Arkansas Supreme Court expressly requires that material information from all transcripts filed in any prior appeal must be abstracted in a second or subsequent appeal. Ark. Sup. Ct. R. 4-2(a)(5)(C) (2012). However, those portions of the first record need not be included in the record that is filed in the second appeal. The record in the first appeal, "having already been filed with the appellate court in the earlier appeal, is a public record which need not be incorporated into the record on the second appeal." *Drymon v. State*, 327 Ark. 375, 378, 938 S.W.2d 825, 827 (1997). "As a part of the public record already filed with the appellate court in the earlier appeal, the . . . record is included as a part of the record before us." *Cartwright v. State*, 2008 WL 5191941, 1 (2008) (per curiam) citing *Drymon*, 327 Ark. 375, 938 S.W.2d 825.

GOODSON and HART, JJ., join.