

SUPREME COURT OF ARKANSAS

No. CR-12-933

BRANDON CLARK FRITTS
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE**Opinion Delivered** June 20, 2013APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT, FORT
SMITH DISTRICT
[NO. CR-2012-113]

HONORABLE JAMES O. COX, JUDGE

REBRIEFING ORDERED.**PER CURIAM**

Appellant Brandon Clark Fritts appeals the order of the Sebastian County Circuit Court convicting him of first-degree murder and sentencing him to life imprisonment. Fritts brings only one argument on appeal: the circuit court erred in denying his motion to suppress incriminating statements he made to police officers on January 30, 2012, after he invoked his right to remain silent. Because there are deficiencies in the briefs filed by both the State and Fritts, we order rebriefing.

First, the State's brief is deficient in that it fails to comply with the requirement of Ark. Sup. Ct. R. 4-3(i) (2012) that the State must "brief all points argued by the appellant." In this case, the argument made by the State does not respond to the argument raised by Fritts. In one of his suppression motions filed below, Fritts challenges "statements" he made on January 30, 2012. In reviewing the record, it is apparent that Fritts made two separate statements to officers from the Fort Smith Police Department. The first interaction Fritts had with the

police occurred when police visited Fritts in the Sequoyah County jail in Oklahoma and informed him that they wished to speak with him. According to the testimony of Fort Smith Police Detective Jeff Carter, introduced at the June 5, 2012 suppression hearing, he informed Fritts that the police knew the truth about the murder of Jamie Czeck and wanted to get Fritts's side of the story. According to Detective Carter, Fritts responded that "he had told [police] all he knew on January the 5th." Detective Carter stated that he then told Fritts that police had recovered the murder weapon, and he then showed Fritts the murder weapon. Thereafter, according to Detective Carter, Fritts stated that he would talk to police if he was allowed to first smoke a cigarette. It is this unrecorded interaction between Fritts and Detective Carter that is the basis for Fritts's suppression argument on appeal.

There was a subsequent recorded interview of Fritts, wherein he stated, "As far as my own statement, I ain't got nothin' more than I already said, but I'll answer your questions." On appeal, however, Fritts argues only that the circuit court erred in denying his motion to suppress based on the unrecorded statement he made right before Detective Carter showed him the murder weapon. At no time during the recorded interview did Detective Carter ever show Fritts the murder weapon. The State, however, mistakenly argues in its brief that the circuit court did not err in denying the suppression of the recorded statement and fails to discuss the argument raised on appeal. Thus, because its brief fails to comply with the requirement of Rule 4-3(i) that the State must brief all arguments raised by the appellant, we order rebriefing.

We further note that the State, in an attempt to comply with Rule 4-3(i), included in its brief a supplemental addendum that contains the transcript of Fritts's recorded statement taken on January 30, 2012. Because we are ordering the State to file a new brief, we take this opportunity to point out deficiencies in Fritts's addendum, so that he, not the State, can correct those deficiencies. Pursuant to Rule 4-3(i), this court is required to review all errors prejudicial to the appellant, and the rule further states in part that

[t]o make that review possible, the appellant must . . . include in the Addendum, as appropriate, all rulings adverse to him or her made by the circuit court on all objections, motions and requests made by either party, together with such parts of the record as are needed for an understanding of each adverse ruling.

Ark. Sup. Ct. R. 4-3(i). Here, Fritts failed to include the recorded statement and accompanying DVD of the January 30, 2012 statement that is the subject of this appeal. Moreover, although Fritts has abandoned on appeal the circuit court's denial of a motion to suppress a second recorded statement he made on February 2, 2012, this court, pursuant to the dictates of Rule 4-3(i), is required to review all rulings prejudicial to the appellant. We are unable to conduct such a review because Fritts has failed to include the necessary materials in his addendum. We encourage Fritts to carefully review the record for other possible deficiencies and to file a substituted brief, correcting any errors in his abstract or addendum, within fourteen days of the issuance of this per curiam. The State shall then have thirty days from the time Fritts files his substituted brief to correct its briefing deficiencies.

Rebriefing ordered.

Brimhall Law Firm, PLLC, by: *Douglas Brimhall*, for appellant.

Dustin McDaniel, Att'y Gen., by: *Kent G. Holt*, Ass't Att'y Gen., for appellee.