

Cite as 2011 Ark. 72

**SUPREME COURT OF ARKANSAS**

No. CR-10-1052

DERRICK ROBERTSON  
APPELLANT

V.

STATE OF ARKANSAS  
APPELLEE

**Opinion Delivered** February 17, 2011

APPEAL FROM THE LITTLE RIVER  
COUNTY CIRCUIT COURT  
[NO. CR 2008-48-1]

HON. TOM COOPER, JUDGE

REBRIEFING ORDERED.

---

PER CURIAM

A jury in Little River County found appellant Derrick Robertson guilty of first-degree murder for which he received a sentence of life in prison. Appellant's sole argument on appeal is that the circuit court erred by admitting multiple crime-scene photographs into evidence. For the reasons discussed herein, we order rebriefing.

The prosecuting attorney in Little River County filed a felony information charging appellant with first-degree murder in connection with the shooting death of Patricia Norwood. At trial, appellant raised objections to the admission of nine photographs taken of the deceased and the crime scene. He argued that Exhibits 2 and 3 and Exhibits 9 and 10 were cumulative, while Exhibits 7, 8, 14, 15, and 18 were inflammatory. The circuit court overruled appellant's objections and permitted these photographs to be introduced into evidence.

On appeal, appellant challenges the circuit court's evidentiary ruling with respect to the admission of the photographs. However, appellant's brief is not in compliance with our rules

because appellant has not included any of the photographs in his addendum. As a result, we cannot consider the appeal at this time.

Rule 4-2(a)(8)(A)(i) of the Rules of the Arkansas Supreme Court and Court of Appeals provides in relevant part that the addendum must include:

any other pleading or document in the record that is essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal. For example, docket sheets, superseded pleadings, discovery related documents, proffers of documentary evidence, jury instructions given or proffered, and *exhibits* (such as maps, plats, *photographs*, computer disks, CDs, DVDs).

(Emphasis added.) Our rule also states that “if an exhibit or other item in the record cannot be reproduced in the addendum, then the party making the addendum must file a motion seeking a waiver of the addendum obligation.” Ark. Sup. Ct. R. 4-2(a)(8)(A)(ii).

In the present case, appellant failed to include the nine photographs in the addendum, and he did not file a motion seeking a waiver of this requirement. Accordingly, we order appellant to file a substituted brief curing the deficiencies in the addendum within fifteen days from the date on entry of this order. After service of the substituted brief, the appellee shall have the opportunity to file a responsive brief, or appellee may choose to rely on the brief previously filed in this appeal. While we have noted the above-mentioned deficiency, we encourage appellant’s counsel to review Rules 4-2 and 4-3 and the entire record to ensure that no additional deficiencies are present, as any subsequent rebriefing order in this criminal matter may result in referral to our Committee on Professional Conduct. *See Lee v. State*, 375 Ark. 421, 291 S.W.3d 188 (2009) (per curiam).

Rebriefing ordered.