

Cite as 2019 Ark. App. 138
ARKANSAS COURT OF APPEALS

DIVISION III
No. CR-18-546

KWASI ANDRADE MCKINNEY

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered February 27, 2019

APPEAL FROM THE COLUMBIA
COUNTY CIRCUIT COURT
[NO. 14CR-16-35]

HONORABLE DAVID W. TALLEY, JR.,
JUDGE

SUPPLEMENTAL ADDENDUM
ORDERED

LARRY D. VAUGHT, Judge

Kwasi Andrade McKinney appeals the order entered by the Columbia County Circuit Court denying his motion to recuse. On appeal, McKinney argues that (1) there is a conflict in the law of judicial disqualification that requires clarification; (2) this court should change the standard of review in judicial-disqualification cases; (3) the circuit court was required to hold a hearing on his motion to recuse; and (4) the circuit court was required to recuse. We cannot reach the merits due to addendum deficiencies.

This is McKinney's second appeal. In the first appeal, McKinney challenged the sentencing order convicting him of delivery of methamphetamine, possession of methamphetamine, maintaining a drug premises, simultaneous possession of drugs and a firearm, possession of methamphetamine with intent to deliver, and possession of a firearm

by certain persons. In *McKinney v. State*, 2018 Ark. App. 10, 538 S.W.3d 216, this court affirmed McKinney's convictions for delivery of methamphetamine and possession of methamphetamine. We reversed and remanded the remaining four convictions, holding that the circuit court abused its discretion in denying McKinney's motions to suppress his statement and the search of his home based on untimeliness and that the court abused its discretion in denying McKinney's request for a hearing on his motion to suppress his statement. *Id.* at 9–10, 538 S.W.3d at 222. We directed the circuit court to rule on the merits of McKinney's motion to suppress the search and to hold a hearing on the record for the limited purpose of considering the arguments and allegations in his motion to suppress his statement. *Id.* at 10, 538 S.W.3d at 223.

On remand, the circuit court held a suppression hearing as directed. Thereafter, the court entered three orders: an order denying McKinney's motion to suppress statement, an order denying his motion to suppress search, and an order denying his motion to recuse. This second appeal followed.

Arkansas Supreme Court Rule 4-2(a)(8) requires the addendum to include true and legible copies of the nontranscript items on appeal that are essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal. This includes motions, jury-verdict forms, orders, and notices of appeal. Ark. Sup. Ct. R. 4-2(a)(8)(A)(i). McKinney's addendum index lists the required items and includes page numbers for them; however, the pages are either blank or illegible. Specifically, the pages purportedly containing the motion to recuse—which is the sole basis for McKinney's arguments on appeal—are blank. The pages for the sentencing order are also blank. The

verdict forms and the notice of appeal are illegible. This information is essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal.

If the appellate court determines that deficiencies or omissions in the abstract or addendum need to be corrected—but complete rebriefing is not needed—then the court will order the appellant to file a supplemental abstract or addendum within seven calendar days to provide the additional materials from the record to the members of the appellate court. Ark. Sup. Ct. R. 4-2(b)(4). Accordingly, we order McKinney to submit a supplemental addendum correcting the above-referenced deficiencies within seven days of this opinion. *Id.*; see also *Powell v. State*, 2013 Ark. App. 149, at 3. We encourage McKinney’s counsel to review Rule 4-2 to ensure that the supplemental addendum complies with the rule and that no additional deficiencies are present.

Supplemental addendum ordered.

GRUBER, C.J., and WHITEAKER, J., agree.

Davis Firm, PLLC, by: *Michael L. Yarbrough*, for appellant.

Leslie Rutledge, Att’y Gen., by: *Adam Jackson, Ass’t Att’y Gen.*, for appellee.