

Cite as 2009 Ark. App. 653

**ARKANSAS COURT OF APPEALS**

DIVISION IV

No. CACR08-1374

JAMES CLAYTON SOLOMON  
APPELLANT

V.

STATE OF ARKANSAS  
APPELLEE

**Opinion Delivered** OCTOBER 7, 2009

APPEAL FROM THE WASHINGTON  
COUNTY CIRCUIT COURT,  
[NO. CR 2007-1380-2 and CR 2008-  
303-2]

HONORABLE KIM M. SMITH,  
JUDGE

REBRIEFING ORDERED

**ROBERT J. GLADWIN, Judge**

Appellant James Clayton Solomon was convicted on July 10, 2008, by a Washington County jury of rape and failure to appear. He contends on appeal that the trial court erred in denying his motion in limine. Because a review of appellant's brief reveals a failure to comply with our rules, we order rebriefing.

Before appellant's trial for rape, he filed a motion in limine<sup>1</sup> seeking to prevent

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<sup>1</sup>Included in the addendum is an "Amended Motion in Limine," which was filed January 11, 2008, along with an "Amended Brief in Support of Defendant's Motion in Limine." Also included is a "Motion in Limine" that was filed July 2, 2008, along with a "Supplement to Motion in Limine," which has attached to it a transcript from the January 7, 2008 revocation hearing held in the United States District Court, Western District of Arkansas, Fort Smith Division. There is no original motion in limine included in the abstract, nor any explanation as to why an "amended" motion shows a filing date before the date on the "motion."

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testimony regarding evidence of his federal conviction and probation revocation; testimony from two women from Crawford County regarding alleged incidents of unwanted physical touching by appellant; testimony from Crawford County law enforcement related to the two women's charges; and testimony from a woman whose claims against appellant were abandoned. The State opposed the motion, claiming that the evidence was admissible.<sup>2</sup>

The trial court took the motion in limine under advisement, allowed appellant's attorney to be relieved, appointed a public defender to represent appellant, and reset the trial for February 12 and 13, 2008. On February 12, 2008, appellant failed to appear and an order for issuance of an arrest warrant was signed. A jury trial was reset for July 8 and 9, 2008.

At the trial, the evidence appellant sought to exclude was admitted. Although there is nothing included in appellant's brief regarding the trial court's ruling on the motion in limine, the abstract does contain testimony from the two women, which was the subject of appellant's motion in limine. However, the abstract contains no objections by appellant to the testimony admitted by the court. Therefore, appellant's brief does not comply with the Rules of the Arkansas Supreme Court and Court of Appeals, Rule 4-2(a)(8)(2009), in that the addendum does not include a copy of the specific ruling which is the subject of this appeal. The addendum further lacks such important items as the State's responses to the motions in limine. Under Rule 4-2(b)(3), "If the Court finds the abstract or Addendum to be deficient

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<sup>2</sup>The State's responses to appellant's motions in limine were not included in the addendum to appellant's brief on appeal.

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such that the Court cannot reach the merits of the case . . . the Court will notify the appellant that he or she will be afforded an opportunity to cure any deficiencies.” Because we consider the deficiency herein to be such that this court cannot reach the merits of the case pursuant to Rule 4-2(b)(3), we remand for rebriefing so that appellant may file a compliant brief.

Rebriefing ordered.

GLOVER and HENRY, JJ., agree.