

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
JUDGE DAVID M. GLOVER

DIVISION II

CACR06-1471

September 12, 2007

MARTY W. BLANN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

APPEAL FROM THE CALHOUN  
COUNTY CIRCUIT COURT  
[CR-2005-60-4]

HONORABLE CAROL CRAFTON  
ANTHONY, JUDGE

APPEAL DISMISSED

Appellant, Marty Blann, was arrested by Damon McGilton, a Hampton City Police Officer, following “Operation Calhoun County Clean-Up.” As part of that operation, Officer McGilton had two confidential informants approach persons in Hampton and other parts of Calhoun County for the purpose of purchasing illegal drugs and videotaping the transactions. Appellant’s arrest was based on such a transaction involving his sale of crystal methamphetamine to one of the CIs. Appellant was tried by a jury and found guilty of the offense of delivery of a controlled substance, crystal methamphetamine. He was sentenced to 150 months in the Arkansas Department of Correction. The original judgment and commitment order was filed on July 28, 2006. An amended judgment and commitment order was filed on August 22, 2006.

Appellant obtained new counsel, who, on August 1, 2006, immediately filed a motion for new trial pursuant to Rule 33.3 of the Arkansas Rules of Criminal Procedure. Despite counsel's diligent and persistent efforts to schedule a timely hearing before the trial court under the rule, the court had neither held such a hearing nor ruled on appellant's motion for new trial by August 31, 2006, which was thirty days after the date that the motion was filed. Therefore, in accordance with Rule 33.3, the motion was deemed denied on that date. Appellant's notice of appeal was filed on September 27, 2006. In it, he appealed from the August 22, 2006 amended judgment and commitment order but not from the August 31, 2006 deemed denial of his motion for new trial.

In this appeal, appellant raises two points, contending that the trial court abused its discretion in denying his motion for new trial without a hearing 1) where the arresting officer lacked the authority and jurisdiction to conduct a criminal investigation and make an arrest of appellant outside of the officer's jurisdiction, and 2) where his trial counsel was ineffective for failing to challenge the authority of the arresting officer. Neither of the arguments raised in appellant's motion for new trial, however, and now on appeal, were considered by the trial court during the trial. A notice of appeal must designate the judgment or order appealed from. Ark. R. App. P. – Crim. (a)(4); *McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004); *Wright v. State*, 359 Ark. 418, 198 S.W.3d 537 (2004); *Daniel v. State*, 64 Ark. App. 98, 983 S.W.2d 146 (1998). Because the deemed denial of appellant's motion for new trial was not designated in his notice of appeal, we cannot reach the merits of his arguments. Therefore, we dismiss the appeal.

Appeal dismissed.

ROBBINS and BAKER, JJ., agree.