

Cite as 2010 Ark. 120

SUPREME COURT OF ARKANSAS

No. CR 09-315

ARMON HOUSTON
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered March 11, 2010

PRO SE MOTION FOR WRIT OF
CERTIORARI TO COMPLETE THE
RECORD [APPEAL FROM THE
CIRCUIT COURT OF PULASKI
COUNTY, CR 2005-2702, HON.
HERBERT T. WRIGHT, JR., JUDGE]MOTION GRANTED IN PART AND
DENIED IN PART.**PER CURIAM**

In 2006, a jury found appellant Armon Houston guilty of first-degree murder and, including an enhancement under Arkansas Code Annotated § 16-90-120 (Repl. 2006), imposed an aggregate sentence of 480 months' imprisonment in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed. *Houston v. State*, CACR 06-1043 (Ark. App. June 13, 2007) (unpublished).

Appellant timely filed in the trial court a petition for relief under Arkansas Rule of Criminal Procedure 37.1 (2007) that was denied. Appellant lodged an appeal of the order in this court. We previously granted an extension of time to file appellant's brief and access to the record. *Houston v. State*, 2009 Ark.422 (per curiam). Appellant has now filed a motion in which he indicates that he believes that the record is incomplete and that he cannot properly prepare his brief without the missing portions. He requests that this court remand

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to settle the record, that he be present during the settling of the record, and that he be allowed access to any supplemental record in order to prepare his brief.

Appellant contends that the record in this matter should include the transcript of the hearing on the Rule 37.1 petition, any rulings on motions filed prior to or during the hearing, and a recorded statement by witness Irma Moragne. The notice of appeal requested that a transcript of the proceedings on the Rule 37.1 petition be included in the record, and those proceedings may indeed be relevant to an appeal. The prepared transcript would include any evidence admitted at the hearing. Appellant appears to allege the missing witness statement was admitted by the trial court, and, only to the extent that it was, the statement would also be relevant. A transcript would reveal any rulings from the bench concerning the motions filed in the proceedings; any omitted written orders concerning motions in the proceedings would also be relevant to this appeal.

We grant appellant's request for a writ of certiorari as to the Rule 37.1 hearing, and direct that a writ of certiorari be issued to the Pulaski County Circuit Court to complete and file a certified supplemental record containing that transcript and any omitted written orders concerning the motions filed in the Rule 37.1 proceedings with our clerk within thirty days of the date of this order. We do not grant appellant's request to oversee and direct preparation of the supplemental record. To the extent that he requires any further supplementation of the record, he is obliged to comply with our procedure and present his request to this court.

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We do grant appellant's request that he be permitted access to the supplemental record. Once the supplemental record is received, our clerk is directed to provide appellant with a copy for preparation of his brief. As with the record, that copy must be returned to this court with appellant's brief, or the brief will not be filed. Because substantial materials will be included in the supplemental record, we direct our clerk to set a new briefing schedule providing appellant with an additional forty days in which to file his brief once the supplemental record is received and appellant is provided with a copy.

Motion granted in part and denied in part.