

Cite as 2011 Ark. 174

SUPREME COURT OF ARKANSAS

No. CR 09-632

LEE A. CROY
Appellant

v.

STATE OF ARKANSAS
Appellee**Opinion Delivered** April 21, 2011APPEAL FROM THE CIRCUIT COURT
OF PULASKI COUNTY, CR 2005-3049,
HON. WILLARD PROCTOR, JR.,
JUDGEREMANDED TO SETTLE THE
RECORD.**PER CURIAM**

In 2008, appellant Lee A. Croy filed in the trial court a petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1 (2010) that was denied. Appellant lodged an appeal in this court, and the parties have filed their briefs. At some point after the record of the Rule 37.1 proceeding was checked out to the Attorney General's office on behalf of the appellee, the record was lost. Our clerk requested a reconstructed record from the circuit court. Our initial review of the briefs has made apparent that the reconstructed record, however, is not complete.

The reconstructed record does not include a transcript or exhibits from a hearing on the Rule 37.1 petition that appears to have been conducted on January 8, 2009. The circuit court's order and the briefs reference the hearing. The transcript and a complete record of the hearing are relevant to the issues on appeal, and we require an accurate and complete record that discloses what occurred in the circuit court. We therefore remand to the circuit court to

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settle the record. Once the record is settled, a new reconstructed record shall be transmitted in accordance with Arkansas Rule of Appellate Procedure–Civil 6(e) (2010), as applicable through Arkansas Rule of Appellate Procedure–Criminal 4(a) (2010).

Remanded to settle the record.