

SUPREME COURT OF ARKANSAS

Chatmon v. State

2014 Ark. 397 (Ark. 2014) · No. CR-13-1006 · Decided September 25, 2014

SUMMARY

The Arkansas Supreme Court remanded Rolandis Lorenzo Chatmon's criminal appeal to settle and supplement the record and ordered rebriefing. The court found that the record lacked verbatim transcripts of audio recordings played at trial and that the appellant's addendum improperly included a photocopy rather than the relevant compact disc. The court directed supplementation within thirty days and filing of a substituted brief thereafter.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	September 25, 2014
DOCKET	CR-13-1006
DISPOSITION	remanded
PROCEDURAL POSTURE	Appeal from a sentencing order following convictions for three counts of aggravated robbery, one count of theft of property, firearm enhancements, and sentencing as a habitual offender to life imprisonment. The Supreme Court of Arkansas did not reach the merits and remanded to settle and supplement the record, ordering rebriefing.
STANDARD OF REVIEW	The court did not reach the merits of the sufficiency-of-the-evidence, evidentiary, or ineffective-assistance claims because the record and brief were procedurally deficient.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	Rolandis Lorenzo Chatmon v. State of Arkansas

TOPICS

- appellate procedure
- criminal procedure
- authentication
- evidence
- preservation of error

PRACTICE AREAS

appellate procedure

criminal procedure

evidence

QUESTIONS PRESENTED

1. Whether the appeal could be decided when the addendum contained only a photocopy of an audio disc essential to the court's understanding and resolution of the issues.
2. Whether the record complied with Arkansas Supreme Court Administrative Order No. 4(a) when it lacked a verbatim record of audio recordings played for the jury.
3. Whether Chatmon was required to file a substituted brief complying with Arkansas Supreme Court Rule 4-2(a)(5) and (8).

HOLDINGS

1. A photocopy of an audio disc does not satisfy Arkansas Supreme Court Rule 4-2(a)(8)(A)(i) when the disc is essential for the appellate court to understand the case and decide the issues on appeal.
2. Unless waived on the record, the circuit court must ensure that a verbatim record is made of proceedings and communications concerning contested matters, including audio recordings played for the jury.
3. After the supplemental record is filed, the appellant must file a substituted brief complying with the rules governing abstracting stenographically reported material and items included in the addendum.

KEY QUOTATIONS

“For this court to understand the case and decide the issues on appeal, a photocopy of the disc simply will not suffice.” (at 1)

“We therefore remand the matter to the circuit court to settle the record and have transcribed all audio recordings that were played for the jury during Chatmon’s trial.” (at 2)

FACTUAL BACKGROUND

Chatmon was convicted of three counts of aggravated robbery and one count of theft of property, with firearm enhancements, and was sentenced as a habitual offender to life imprisonment. The appellate record contained compact discs with 911 calls and recorded telephone calls, but the addendum included only a photocopy of one disc. The record also lacked verbatim transcriptions of audio recordings played for the jury.

PROCEDURAL HISTORY

Chatmon appealed the Faulkner County Circuit Court's sentencing order and raised challenges to the sufficiency of the evidence, admission and authentication of audio recordings, and denial of a new-trial motion based on ineffective assistance of counsel. The Supreme Court determined that the record lacked required materials and verbatim transcriptions and that the appellant's brief and addendum failed to comply with Arkansas appellate rules. It remanded for supplementation of the record and ordered a substituted brief.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The circuit court must settle the record and transcribe all audio recordings played for the jury, supplement the record within thirty days of the order, and then file the supplemental record. Chatmon must file a substituted brief within fifteen days after the supplemental record is filed, complying with Arkansas Supreme Court Rule 4-2(a)(5) and (8). Within fifteen days after Chatmon's substituted brief is filed, the State may revise or substitute its brief or rely on its previously filed brief.

OPINION

PER CURIAM.

Cite as 2014 Ark. 397 SUPREME COURT OF ARKANSAS No. CR-13-1006 ROLANDIS LARENZO CHATMON Opinion Delivered September 25, 2014 APPELLANT APPEAL FROM THE FAULKNER V. COUNTY CIRCUIT COURT [NO. 23CR-12-571] STATE OF ARKANSAS HONORABLE MICHAEL A. APPELLEE MAGGIO, JUDGE REMANDED TO SETTLE AND SUPPLEMENT THE RECORD; REBRIEFING ORDERED. PER CURIAM Appellant Rolandis Lorenzo Chatmon appeals from the sentencing order of the Faulkner County Circuit Court reflecting his convictions on three counts of aggravated robbery, one count of theft of property, including firearm enhancements, and his sentence as a habitual offender to a total term of imprisonment for life.

He asserts three points on appeal: that the circuit court erred in (1) failing to grant his motion for directed verdict; (2) admitting certain audio recordings; and (3) denying his motion for new trial based on a claim of ineffective assistance of counsel.

We are unable to reach the merits of his appeal, however, because the record is not in compliance with Arkansas Supreme Court Administrative Order No. 4(a) (2013), and Chatmon's brief is not in compliance with Arkansas Supreme Court Rule 4-2(a)(5), (8) (2013).

We therefore remand the matter to the circuit court to settle and supplement the record, and we order Chatmon to file a substituted brief after the Cite as 2014 Ark. 397 supplemental record is filed. Contained in the instant record are three compact discs—two of which contain 911 calls made by two of the three victims and one containing recorded phone calls between Chatmon and his then girlfriend, Crystal Brown, who testified in the State's case-in-chief at trial.

Chatmon challenges on appeal the authentication of the latter disc, as well as the sufficiency of the evidence against him; however, his addendum contains only a photocopy of the disc. Arkansas Supreme Court Rule 4-2(a)(8)(A)(i) requires that the addendum contain any pleading or

document, including exhibits such as compact discs, “that is essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal.” Ark.

Sup. Ct. R. 4-2(a)(8)(A)(i). For this court to understand the case and decide the issues on appeal, a photocopy of the disc simply will not suffice. But, in addition, our review of the record reveals that it does not comply with Arkansas Supreme Court Administrative Order No. 4(a), which provides that [u]nless waived on the record by the parties, it shall be the duty of any circuit court to require that a verbatim record be made of all proceedings, including any communications between the court and one or more members of the jury, pertaining to any contested matter before the court or the jury.

This would include a verbatim record of any audio recordings played at trial, unless waived on the record by the parties. The instant record, however, lacks either. We therefore remand the matter to the circuit court to settle the record and have transcribed all audio recordings that were played for the jury during Chatmon’s trial.

The record shall be supplemented within thirty days of this order’s date and, after the supplemental record has been filed, Chatmon shall file a substituted brief that complies with our rules for abstracting 2 Cite as 2014 Ark. 397 stenographically reported material and governing items to be included in the addendum. See Ark. Sup. Ct. R. 4-2(a)(5), (8). Further, we strongly encourage Chatmon to review the rules to ensure that no other deficiencies are present prior to filing his substituted brief.

We remand to settle and supplement the record within thirty days of the date of this order, and we order rebriefing. Pursuant to Arkansas Supreme Court Rule 4-2(b)(3), Chatmon’s substituted brief shall be filed within fifteen days of the supplemental record being filed. Within fifteen days of Chatmon’s substituted brief being filed, the State may revise or substitute its brief, or it may rely on its previously filed brief.

Remanded to settle and supplement the record; rebriefing ordered. Digby Law Firm, by: Bobby R. Digby II, for appellant. Dustin McDaniel, Att’y Gen., by: Karen Virginia Wallace, Ass’t Att’y Gen., for appellee. 3