

SUPREME COURT OF ARKANSAS

George v. State

351 Ark. 209 (2002) · Decided November 21, 2002

SUMMARY

The Arkansas Supreme Court considers a renewed motion for a rule on clerk concerning a transcript prepared by an uncertified court reporter. The court holds that the trial court’s finding of sufficient accuracy and the prosecuting attorney’s affidavit certifying the transcript satisfy the applicable requirements, and it grants the motion despite defense counsel’s refusal to certify the transcript.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	November 21, 2002
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The appellant renewed a motion for a rule on clerk seeking acceptance and filing of the appellate transcript prepared by an uncertified court reporter, and alternatively requested a new trial.
PRECEDENTIAL VALUE	precedential
PARTIES	Myron Kent George v. State

TOPICS

- appellate procedure
- criminal procedure

PRACTICE AREAS

- appellate procedure
- criminal procedure

QUESTIONS PRESENTED

1. Whether a transcript prepared by an uncertified court reporter may be accepted and filed when the trial court has found it sufficiently accurate and the prosecuting attorney has certified it as a fair and accurate record, despite defense counsel's refusal to certify it.

2. Whether George was entitled to a new trial because defense counsel could not certify the transcript's accuracy.

HOLDINGS

1. The trial court's finding that the transcript was sufficiently accurate for appeal purposes, together with the prosecuting attorney's affidavit certifying it as a fair and accurate record, satisfied the requirements established in *Mitchell v. State*. The Supreme Court therefore granted the renewed motion for a rule on clerk.
2. George was not granted a new trial; the court resolved the matter by granting the motion for a rule on clerk and directing acceptance of the transcript.

KEY QUOTATIONS

“We hold that the trial court’s order finding sufficient accuracy for appeal purposes and the prosecuting attorney’s affidavit certifying the transcript to be a fair and accurate record of George’s trial satisfy the Mitchell requirements.”

FACTUAL BACKGROUND

George's trial transcript was prepared by Nila Keels, who was not a certified court reporter at the time of trial. The trial court found that the transcript had no substantial defects and was sufficiently accurate for appellate purposes. The prosecuting attorney independently reviewed the transcript and attached exhibits and certified by affidavit that, apart from insignificant clerical errors, it appeared to be a fair and accurate record. Defense counsel cited only the passage of time as the reason for refusing to certify the transcript and identified no specific defects.

PROCEDURAL HISTORY

George's trial occurred on January 22-23, 2001. After delays in preparation and filing of the record, the Supreme Court previously denied a rule-on-clerk motion and directed the circuit court to secure prompt certification of a complete record. The trial court later found the transcript sufficiently accurate for appellate use, and the prosecuting attorney submitted an affidavit stating that the transcript was fair and accurate. Defense counsel refused to certify the transcript but renewed the motion for a rule on clerk.

DISPOSITION

writ_granted

CASES CITED

- *George v. State*, 346 Ark. 22, 53 S.W.3d 526 (2001) (per curiam)
- *Mitchell v. State*, 345 Ark. 359, 45 S.W.3d 846 (2001) (per curiam)