

SUPREME COURT OF ARKANSAS

Mitchem v. State

363 Ark. 451 (2005) · Decided October 6, 2005

SUMMARY

The Arkansas Supreme Court grants Robert Lee Mitchem’s petition for a writ of certiorari to complete the record in his criminal appeal. The court directs the Craighead County Circuit Court clerk to file a certified supplemental record within thirty days, while limiting the additional time granted to complete the record to thirty days.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	October 6, 2005
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of certiorari to complete the appellate record after the petitioner was unable to obtain another extension of time to file the record.
PRECEDENTIAL VALUE	precedential
PARTIES	Robert Lee Mitchem v. State

TOPICS

- writ of certiorari
- appellate procedure
- criminal procedure

PRACTICE AREAS

- appellate procedure
- criminal procedure

QUESTIONS PRESENTED

- Whether the Arkansas Supreme Court should issue a writ of certiorari under Rule 3-5 to permit completion of the appellate record after the petitioner had exhausted the available extensions of time.
- Whether the petitioner was entitled to an additional sixty days to complete the record.

HOLDINGS

1. The Arkansas Supreme Court granted the petition and directed issuance of a writ of certiorari requiring the clerk of the Craighead County Circuit Court to complete and file a certified supplemental record.
2. Mitchem was not entitled to the requested additional sixty days; the court granted only the thirty-day period authorized by Rule 3-5.

KEY QUOTATIONS

“If the appellant is unable to obtain entry of an order of extension before expiration of the period prescribed by subdivision (a) of this rule or a prior extension order, the appellant may file with the clerk of the Supreme Court a petition for writ of certiorari pursuant to Rule 3-5 of the Rules of the Supreme Court and Court of Appeals.” (363 Ark. 451)

FACTUAL BACKGROUND

A judgment and commitment order entered on December 3, 2004, convicted Mitchem of kidnapping and attempted rape. Although he timely filed a notice of appeal, the court reporter had not begun preparing the transcript and was unaware of the appeal until several months later. Mitchem obtained extensions totaling seven months from entry of judgment, filed a partial record on July 1, 2005, and sought an additional sixty days to complete the record.

PROCEDURAL HISTORY

Mitchem was convicted of kidnapping and attempted rape and timely filed a notice of appeal. After obtaining prior extensions, he filed a partial record and petitioned the Arkansas Supreme Court for certiorari under Rule 3-5 to obtain additional time to complete the record. The Supreme Court granted the petition and directed the Craighead County Circuit Court clerk to prepare and file a certified supplemental record.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

A writ of certiorari shall issue to the clerk of the Circuit Court of Craighead County to complete and file a certified supplemental record with the Arkansas Supreme Court clerk within thirty days from the date of the per curiam opinion. A briefing schedule was to be set after filing.