

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA09-86

K. L., a Minor

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered January 6, 2010

APPEAL FROM THE DESHA
COUNTY CIRCUIT COURT
[JV-07-214-5]

HONORABLE TERESA FRENCH,
JUDGE

REMANDED FOR REBRIEFING

DAVID M. GLOVER, Judge

In this juvenile-court appeal, it is unclear from the record whether the appellant, K.L., was adjudicated delinquent for rape or sexual indecency with a child. A Desha County Circuit Court adjudicated as true the charge of sexual indecency with a child against K.L. At the time of the incident, K.L. was eleven years old and in the fifth grade. Appellant makes three arguments on appeal: (1) that the trial court's verdict is not supported by substantial evidence; (2) that the school principal, Darlene Montgomery, was a State actor when she conducted an investigation into the alleged crime, and as such, she was bound by the Fourteenth Amendment; (3) that the trial court erred in prohibiting the introduction of evidence regarding the victim's character for truthfulness and honesty. For the reasons explained below, we remand for rebriefing.

First, we are troubled by the inconsistencies between the only adjudication order found in the record, filed on August 15, 2008, and the subsequent orders of September 12, 2008, and October 14, 2008. The adjudication order was a computer-generated form in which the offense of rape had originally been inserted as the adjudicated offense, but that offense was marked out, and the offense of sexual indecency with a child was handwritten in as the offense for which K.L. was adjudicated delinquent. The subsequent orders then indicate that the adjudicated offense was rape, not sexual indecency with a child. In the appeal, though both appellant and the State make their arguments as they concern K.L.'s adjudication for rape, the adjudication order on its face clearly indicates that K.L. was adjudicated delinquent for sexual indecency with a child. Was it rape? Was it sexual indecency with a child? We are unable to tell from this record. We cannot ignore this inconsistency, and we cannot consider the merits of this appeal until this inconsistency is rectified, or at least explained.

Second, appellant's brief is deficient. Section VII(A)(2) of Administrative Order Number 19 provides that information that is excluded from public access pursuant to Arkansas Code Annotated is both excluded from public access and confidential, absent a court order to the contrary, unless disclosed in open court and made part of a verbatim transcript of court proceedings or included in trial-transcript source materials. Arkansas Code Annotated section 9-27-309(k) (Supp. 2009) provides that, except for certain exceptions not present here, "information regarding the arrest or detention of a juvenile and related proceedings under this subchapter shall be confidential." The brief was not filed under seal. While appellant's counsel referred throughout the abstract and argument to appellant by his initials, the

Cite as 2010 Ark. App. 11

addendum clearly states appellant's full name. The addendum also contains appellant's social-security number, another violation of section VII of Administrative Order Number 19.

Remanded for rebriefing.

VAUGHT, C.J., and MARSHALL, J., agree.