

ARKANSAS COURT OF APPEALS

DIVISION II

No. CA09-606

TONYA RODGERS

APPELLANT

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES

APPELLEE

Opinion Delivered November 18, 2009

APPEAL FROM THE CRAIGHEAD
COUNTY CIRCUIT COURT,
[NO. JV 2008-199]

HONORABLE CINDY THYER, JUDGE

REMANDED TO SETTLE THE RECORD

M. MICHAEL KINARD, Judge

On March 3, 2009, the Craighead County Circuit Court terminated the parental rights of appellant Tonya Rodgers to her son, C.R., born January 6, 2004. Rodgers's attorney has filed a motion to withdraw and a no-merit brief pursuant to *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004), and Ark. Sup. Ct. R. 4-3(j)(1). The Arkansas Department of Human Services (DHS) has not filed a brief. We cannot reach the merits of this appeal because the record is deficient.

One of the grounds for termination of Rodgers's parental rights found by the circuit court was that Rodgers had subjected her son to aggravated circumstances in that a determination had been made by a judge that there was little likelihood that services to the family would result in successful reunification. See Ark. Code Ann. § 9-27-341(b)(3)(B)(ix)(a)(3)(A) and (B)(i) (Repl. 2008). The record reflects that DHS filed a motion seeking to

terminate all reunification services. Counsel for Rodgers and the attorney *ad litem* both stated that DHS's motion for no reunification services had been granted. However, the order is not contained in the record.

Rule 6(e) of the Rules of Appellate Procedure–Civil provides in relevant part that:

If anything material to either party is omitted from the record by error or accident or is misstated therein,... the appellate court on proper suggestion, or on its own initiative, may direct that the omission or misstatement shall be corrected, and if necessary, that a supplemental record be certified and transmitted. . . .

Because the order disposing of DHS's motion to be relieved of providing services is not contained in the record, we remand for the record to be settled within fifteen days from entry of this order.

Remanded to settle the record.

PITTMAN and BAKER, JJ., agree.