

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA11-509

DAVID W. PASCHAL

APPELLANT

V.

TRESSA PASCHAL

APPELLEE

Opinion Delivered January 4, 2012

APPEAL FROM THE WASHINGTON
COUNTY CIRCUIT COURT,
[NO. DR-2011-21-7]

HONORABLE JOANNA BOYLES
TAYLOR, JUDGE

REBRIEFING ORDERED

RAYMOND R. ABRAMSON, Judge

Appellee Tressa Paschal was granted an order of protection on behalf of the parties' children against appellant David Paschal, her ex-husband. In this one-brief appeal, appellant argues that the circuit court abused its discretion when it denied his motion to dismiss, denied his motion for psychological evaluations of the children, and admitted the hearsay statements of the parties' younger child, B.P. He also contends that the circuit court's finding of domestic abuse was "clearly erroneous, against the preponderance of the evidence, and not supported by sufficient evidence, as to both children." We do not reach the merits of appellant's arguments because we must order rebriefing.

Our abstracting rules provide, in relevant part:

(5) Abstract. The appellant shall create an abstract of the material parts of all the transcripts (stenographically reported material) in the record. Information in a transcript is material if the information is essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal.



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(A) Contents. *All material information recorded in a transcript* (stenographically reported material) *must be abstracted.* . . .

(B) Form. The abstract shall be an impartial condensation, without comment or emphasis, of the transcript (stenographically reported material). The abstract must not reproduce the transcript verbatim. No more than one page of a transcript shall be abstracted without giving a record page reference. In abstracting testimony, the first person (“I”) rather than the third person (“He or She”) shall be used. *The question-and-answer format shall not be used.* In the extraordinary situations where a short exchange cannot be converted to a first-person narrative without losing important meaning, however, the abstract may include brief quotations from the transcript.

Ark. Sup. Ct. R. 4-2(a)(5) (2011) (emphasis supplied). Here, appellant’s abstract is entirely in question-and-answer format. Additionally, while immaterial portions of the transcript should be omitted from the abstract, we are concerned that *material* information may have been omitted from the twenty-four page abstract in this case. For example, regarding the motion to dismiss, appellant’s arguments and the court’s ruling are included, but appellee’s arguments are omitted.

Because appellant has failed to comply with our rule concerning abstracting, we order appellant to file a substituted brief curing the deficiencies in the abstract within fifteen days from the date of entry of this order. *See* Ark. Sup. Ct. R. 4-2(b)(3). After service of the substituted brief, appellee will have the opportunity to file a responsive brief in the time prescribed by the supreme court clerk. Appellant’s counsel is strongly encouraged to review Rule 4-2 in its entirety as it relates to the abstract and addendum, as well as the entire record, to ensure that no additional deficiencies are present, as any subsequent rebriefing order may



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result in affirmance of the order or judgment due to noncompliance with Rule 4-2. *See Ark. Sup. Ct. R. 4-2(b)(3)* (2011); *see also Kirkland v. Sandlin*, 2011 Ark. 106 (per curiam).

Rebriefing ordered.

HART and ROBBINS, JJ., agree.

The Copeland Law Firm, by: *Casey D. Copeland*, for appellant.