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ARKANSAS COURT OF APPEALS

DIVISION II
No. CA 11-1127

RICKEY VAUGHN THOMPSON APPELLANT V. KELLY THOMPSON APPELLEE	**Opinion Delivered** April 25, 2012 APPEAL FROM THE RANDOLPH COUNTY CIRCUIT COURT [NO. DR-2011-91] HONORABLE PHILIP SMITH, JUDGE AFFIRMED

DOUG MARTIN, Judge

The Randolph County Circuit Court granted appellee Kelly Thompson a divorce from appellant Rickey Vaughn Thompson on the ground of general indignities. Although Rickey was served with the complaint for divorce and summons, neither Rickey nor counsel on his behalf appeared at the hearing on Kelly's complaint. Rickey now argues that the trial court's "default judgment" should be vacated and contends that this case must be reversed and dismissed because Kelly's complaint for divorce failed to state a cause of action. We affirm.

On May 4, 2011, Kelly filed a complaint for divorce in which she alleged jurisdictional matters; the dates on which the parties married and separated; that no children were born from the marriage; that both parties owned real and personal property; and that she was "entitled to an absolute decree of divorce from defendant on grounds of general indignities."

The "Decree of Divorce," entered on July 15, 2011, provides:

> On this 5th day of July, 2011, this cause comes on to be heard, the plaintiff, Kelly Thompson, appearing in person and by her attorney, John C. Throesch; defendant, Rickey Vaughn Thompson, having been duly served with the complaint and summons appears not and after examination of the testimony of the witnesses, the pleadings filed herein, and being well advised in the premises, the Court finds:
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> . . . .
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> 4. That plaintiff is granted an absolute divorce from defendant on the grounds of general indignities pursuant to Arkansas law, and the matrimonial bond existing between them is hereby canceled, set aside, and held for naught on such grounds.

The trial court then distributed the parties' property, citing specific findings with respect to each distribution of property. Rickey does not appeal from the trial court's division of property.

Rickey filed a notice of appeal from the divorce decree on August 15, 2011, challenging the sufficiency of the facts alleged in Kelly's complaint for divorce, specifically, the ground of general indignities. Rickey argues, "This complaint does not state a cause of action."

This court will not consider arguments on appeal when the party has failed to obtain a ruling from the trial court. *Maguire v. Jines*, 2011 Ark. App. 359, 384 S.W.3d 71. "[I]t is incumbent upon the parties to raise arguments initially to the circuit court and to give that court an opportunity to consider them. . . . Otherwise, we would be placed in the position of reversing a circuit court for reasons not addressed by that court." *Roberts v. Yang*, 2010 Ark. 55, at 6, 370 S.W.3d 170, 174. Our supreme court has repeatedly said that it will not consider an assertion of error if the appellant makes no convincing argument or cites no legal authority

to support it, unless it is apparent without further research that the argument is well taken. *See Sanford v. Murdoch*, 374 Ark. 12, 285 S.W.3d 620 (2008).

We note, generally, that a party may move to dismiss a claim for the failure to state facts upon which relief can be granted pursuant to Arkansas Rule of Civil Procedure 12(b)(6). In this case, however, Rickey took no action whatsoever with regard to the trial court's proceedings until he filed a notice of appeal to this court. Rickey wants this court to grant relief that he never requested below. Although Rickey characterizes the trial court's decree of divorce as a "default judgment," he does not explain how he arrived at that conclusion and does not cite Arkansas Rule of Civil Procedure 55(c), which provides, in part, that the court may, *upon motion*, set aside a default judgment based on specific grounds listed within the rule. Ark. R. Civ. P. 55(c) (2011) (emphasis added); *see also Diebold v. Myers Gen. Agency, Inc.*, 292 Ark. 456, 731 S.W.2d 183 (1987) (holding that, when a judgment is based upon evidence presented to the court at a trial, as opposed to being based on the failure of a party to appear or attend, the judgment is not a default judgment, and Rule 55 does not apply). Moreover, the argument section of Rickey's brief on appeal is one-and-a-half pages long. Rickey cites some case law but does not apply the holdings of those cases to the facts of the case at bar and otherwise makes no convincing argument on appeal. Thus, Rickey's point, even if it could be raised for the first time on appeal, is not sufficiently developed for review, and this court will not conduct research on Rickey's behalf.

Affirmed.
ROBBINS and HOOFMAN, JJ., agree.

Dick Jarboe, for appellant.
John C. Throesch, for appellee.