

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA11-941

JOE RYBURN

APPELLANT

V.

JANET CAROL RYBURN

APPELLEE

Opinion Delivered August 29, 2012

APPEAL FROM THE SALINE
COUNTY CIRCUIT COURT
[No. DR-04-653-1]

HONORABLE BOBBY D.
McCALLISTER, JUDGE

DISMISSED

LARRY D. VAUGHT, Chief Judge

Pro se appellant Joe Ryburn appeals two orders of the Saline County Circuit Court. One order, entered May 31, 2011, reduced Joe's child-support payment to appellee Janet Ryburn to \$1218.30 per month. The second order, entered June 8, 2011, found Joe in contempt based on his failure to make mortgage payments on the parties' marital home and awarded Janet a \$104,000 judgment. Because the orders from which Joe appeals are not final, appealable orders, we lack jurisdiction to reach the merits of his appeal.¹

Rule 2 of the Arkansas Rules of Appellate Procedure—Civil allows appeals only from final judgments and decrees. Ark. R. App. P.—Civ. 2(a)(1) (2011). Finality is a jurisdictional question which we may address sua sponte. *Brasfield v. Murray*, 2009 Ark. App. 879, at 3. For an order to

¹We recognize that a contempt order that imposes a sanction and constitutes the final disposition of a contempt matter is ordinarily appealable. *Wommack v. Ingram*, 2010 Ark. App. 529. Here, however, we do not regard the contempt order to be final because it does not adjudicate the claims or liabilities of a third-party defendant, which may have an interest in the judgment awarded in the contempt order. *See id.*



be final, it must dismiss the parties from the court, discharge them from the action, or conclude their rights to the subject matter in controversy. *Id.* at 3. Arkansas Rule of Civil Procedure 54(b) provides that, when more than one claim for relief is presented in an action or when multiple parties are involved, an order that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties is not a final, appealable order. *Id.* at 3–4 (citing Ark. R. Civ. P. 54(b)).

In the brief filed by Joe, his addendum includes a pleading filed by Janet on January 12, 2011, in which Wells Fargo Home Mortgage, Inc., is listed as a third-party defendant in the caption. The orders from which Joe appeals fail to adjudicate the claims or liabilities of this third-party defendant. In fact, there is no pleading in Joe’s addendum (or the record) demonstrating that this third-party defendant was dismissed from this lawsuit or that its rights or liabilities were adjudicated.

Arkansas Supreme Court Rule 4-2 provides that the appellant’s addendum shall contain copies of documents in the record on appeal that are essential for the appellate court to confirm its jurisdiction. Ark. Sup. Ct. R. 4-2(a)(8). Thus, the burden is on Joe to bring a record before the appellate court demonstrating that all claims in the matter have been brought to a conclusion and that the trial court’s judgment is final. *Brasfield*, 2009 Ark. App. 879, at 4. He failed to do that in this case. Therefore, we dismiss his appeal without prejudice.²

Appeal dismissed.

ROBBINS and ABRAMSON, JJ., agree.

Joe D. Ryburn, pro se appellant.

Jensen Young & Houston, PLLC, by: *Terence C. Jensen*, for appellee.

²Should Joe elect to refile his appeal, we encourage him to review the abstracting rules. Arkansas Supreme Court Rule 4-2(a)(5) (2011) provides that the appellant shall abstract the material parts of the transcripts in the record. The rule further provides that information is material if it is essential for the appellate court to not only confirm its jurisdiction, but also to understand the case and decide the issues on appeal. *Id.*