

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA12-114

CAL MOORE ET AL.

APPELLANTS

V.

KAREN DUNSWORTH AND KERRY
MCCLENDON

APPELLEES

Opinion Delivered October 3, 2012

APPEAL FROM THE UNION
COUNTY CIRCUIT COURT
[NO. CV-2006-434-6]

HONORABLE DAVID F. GUTHRIE,
JUDGE

REBRIEFING ORDERED

JOHN MAUZY PITTMAN, Judge

This is an appeal after remand. In *Moore v. Dunsworth*, 2010 Ark. App. 446, we held that the trial court erred in finding that appellees established title to a five-acre tract of land by adverse possession, and we reversed and remanded for further consistent proceedings. On remand, the trial judge again awarded a portion of the property to appellees based on an alternative theory of ownership. On appeal, appellants assert that the trial court's order on remand exceeded the scope of our mandate. Appellees assert that the alternative ground was pled and ruled on in the original proceeding and that the trial court's ruling on remand was thus within the scope of our mandate. We cannot decide this issue because the pleadings, proceedings, and order from the prior appeal have not been included in the abstract and addendum.

Rule 4-2 of the Rules of the Arkansas Supreme Court and Court of Appeals prescribes the contents required in appellate briefs. Rule 4-2(a)(5)(C) expressly requires that material



Cite as 2012 Ark. App. 542

information from all transcripts filed in any prior appeal must be abstracted in a second or subsequent appeal. Rule 4-2(a)(3) requires that an addendum contain, *inter alia*, the basic pleadings and orders in the case. Where, as here, the abstract or addendum is so deficient that we are unable to reach the merits of the case, Rule 4-2(b)(3) requires us to afford the appellants fifteen days within which to file a substituted abstract, brief, and addendum, at their own expense, to conform with Rule 4-2(a)(5) and (8). Upon the filing of such a substituted brief by appellants, the appellees will be afforded an opportunity to revise or supplement their brief at the expense of appellants' counsel. Consequently, we afford appellants the opportunity to cure all deficiencies and to file a conforming abstract, brief, and addendum within fifteen days of the date of this opinion.

Rebriefing ordered.

GLADWIN and ROBBINS, JJ., agree.

McKissic & Associates, PLLC, by: *Jackie B. Harris*, for appellants.

Burbank Dodson & Barker, PLLC, by: *Don B. Dodson*, for appellees.