

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA12-645

GARY SPEARS

APPELLANT

V.

WENDY SPEARS

APPELLEE

Opinion Delivered March 6, 2013

APPEAL FROM THE CRAIGHEAD
COUNTY CIRCUIT COURT,
WESTERN DISTRICT
[NO. DR-09-1074]

HONORABLE BARBARA HALSEY,
JUDGE

REBRIEFING ORDERED

LARRY D. VAUGHT, Judge

This divorce case returns to us following dismissal for lack of a final order. *Spears v. Spears*, 2012 Ark. App. 181 (*Spears I*). In *Spears I*, we directed appellant to correct several deficiencies in his abstract and addendum in the event he refiled his appeal. Appellant has refiled his appeal, but his current brief does not comply with our directives. We therefore order rebriefing, with the caveat that failure to file a complying brief on this occasion will result in affirmance.

We first address a new briefing error. Following our opinion in *Spears I*, appellant returned to circuit court and obtained a final divorce decree. He then filed a motion for a new trial. When the motion was deemed denied after thirty days, a notice of appeal followed. The new-trial motion does not appear in appellant's addendum. It is essential to determining our jurisdiction on appeal. *See* Ark. R. App. P.–Civ. 4(b)(1) (2012) (extending the deadline for filing



Cite as 2013 Ark. App. 164

a notice of appeal if certain posttrial motions are filed); Ark. Sup. Ct. R. 4-2(a)(8)(A)(i) (2012) (requiring inclusion in the addendum of documents essential for the appellate court to confirm its jurisdiction). Appellant must therefore include the new-trial motion in his addendum.

Appellant has also failed to address many of the briefing errors that, in *Spears I*, we stated “must be corrected.” 2012 Ark. App. 181, at 3. We reiterate that all pleadings, orders, notices, and decrees in the addendum must bear legible file marks. Also, the addendum must include appellant’s counterclaim and appellee’s response; the agreed temporary order; plaintiff’s exhibits 3, 4, and 5; and defendant’s exhibit 2. Further, the pleadings and exhibits in the addendum must be exact copies of those in the record. Some items in the addendum appear to be copied from another source. Finally, many page references to the record in appellant’s abstract and addendum are erroneous and must be corrected.

This is our second and final time to inform appellant of the specific deficiencies in his brief and the corrective actions that must be taken. Compliance with our directives is necessary if appellant wishes us to consider the merits of his arguments. We grant appellant fifteen days in which to file a substituted abstract, addendum, and brief. Ark. Sup. Ct. R. 4-2(b)(3) (2012).

Appellant’s failure to comply with this rebriefing order in the time allotted will result in affirmance. *Id.*; Ark. Sup. Ct. R. 4-2(c)(2) (2012).

Rebriefing ordered.

HARRISON and WOOD, JJ., agree.

Scott Emerson, P.A., by: *Scott Emerson*, for appellant.

Goodwin Moore, PLLC, by: *Harry Truman Moore*; and *B. Neal Burns, PLLC*, by: *Neal Burns*, for appellee.