

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA13-54

KENNETH BRIAN MARTIN
APPELLANT

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES AND N.M.,
MINOR CHILD
APPELLEES

Opinion Delivered May 1, 2013

APPEAL FROM THE BOONE
COUNTY CIRCUIT COURT
[NO. JV-10-100]

HONORABLE GARY ISBELL, JUDGE

REMANDED TO SUPPLEMENT THE
RECORD; REBRIEFING ORDERED;
MOTION TO WITHDRAW DENIED

PHILLIP T. WHITEAKER, Judge

Kenneth Brian Martin appeals from an October 17, 2012 order terminating his parental rights to his daughter, N.M., born November 24, 2008. Martin’s attorney has filed a no-merit brief and a motion to be relieved as counsel in accordance with Ark. Sup. Ct. R. 6-9(i) (2012) and *Linker-Flores v. Arkansas Department of Human Services.*, 359 Ark. 131, 194 S.W.3d 739 (2004), stating that there are no issues of arguable merit for reversal. Because the entire record is not before us, we remand to supplement the record.

On April 24, 2012, the Boone County Circuit Court held a hearing on a petition to terminate the parental rights of Leah Dossey and the appellant, Kenneth Brian Martin. Martin initially consented to the termination, but later withdrew his consent. The hearing was suspended, mid-presentation, after Martin withdrew his consent. The trial court



continued the hearing to May 8, 2012, to allow Martin to have a full hearing on the issues.¹ In its order terminating parental rights, the trial court states that its opinion was based on the April 24 and the May 8 hearings.

The transcript of the May 8, 2012 hearing has been included in our record; the transcript of the April 24, 2012 hearing has not. Our record does contain exhibits that were admitted into evidence during the April 24, 2012 hearing, but at least one of the exhibits has not been included in the addendum.

It is our duty under Rule 6-9 to review the entire termination proceeding. We cannot do so here. Because we do not have the entire transcript of the termination hearing before us to review, as required by Rule 6-9(c)(1) of the Arkansas Rules of the Supreme Court, we remand to supplement the record with the transcript of the April 24, 2012 hearing and deny Martin's counsel's motion to withdraw. *See* Ark. R. App. P.–Civ. 6(e) (2012); *Jenkins v. APS Ins., LLC*, 2012 Ark. App. 368, at 6 (If anything material to either party is omitted from the record, by error or accident, we may direct that the omission or misstatement be corrected, and, if necessary, that a supplemental record be certified and transmitted.). Martin has thirty days from the date of this opinion to supplement the record. He shall then have fifteen days to file a substituted brief, and appellees shall have fifteen days to respond, if they so desire.

¹ Dossey did not appear at either termination hearing and has not appealed the termination of her parental rights.



Cite as 2013 Ark. App. 293

Remanded to supplement the record; rebriefing ordered; motion to withdraw denied.

WALMSLEY and GLOVER, JJ., agree.

Leah Lanford, Arkansas Public Defender Commission, for appellant.

No response.