

ARKANSAS COURT OF APPEALS

DIVISION I
No. CV-14-353

JEANNIE SHERMAN
APPELLANT

V.

RAYMOND BOECKMANN
APPELLEE

Opinion Delivered October 16, 2015

APPEAL FROM THE CROSS
COUNTY CIRCUIT COURT
[NO. 19-DR-12-81-4]

HONORABLE KATHLEEN BELL,
JUDGE

SUBSTITUTED OPINION

APPEAL DISMISSED

BRANDON J. HARRISON, Judge

Jeannie Sherman and Raymond Boeckmann were divorced by order of the Cross County Circuit Court in September 2013. Sherman appeals from the circuit court’s order dividing the marital property. Because the circuit court’s divorce decree is not a final order, we must dismiss the appeal.¹

In its decree, the circuit court ordered the parties’ real and personal property to be sold on mutually agreeable terms, but if they could not agree, then the clerk of the court would sell the property and divide the proceeds equally. This same type of provision has resulted in our court dismissing several recent appeals for want of a final order. *See Kelly v.*

¹This case was originally handed down in a combined opinion with CV-14-1096. We are now issuing two separate opinions for CV-14-353 and CV-14-1096.

Kelly, 2015 Ark. App. 147; *Moore v. Moore*, 2015 Ark. App. 115; *White v. White*, 2014 Ark. App. 628; *Sanders v. Passmore*, 2014 Ark. App. 237; *Colley v. Colley*, 2014 Ark. App. 194; *Nix v. Nix*, 2014 Ark. App. 162; *Carroll v. Carroll*, 2013 Ark. App. 286; *Wadley v. Wadley*, 2010 Ark. App. 733.² When the order appealed from is not final, we are without jurisdiction to decide the merits. *Carroll, supra*. Thus, we dismiss the appeal without prejudice.

Although we are dismissing this case, we take this opportunity to note some addendum deficiencies that should be corrected before the case is refiled with this court. Although the parties do not raise the issue, we may raise issues of deficiencies in the abstract and addendum on our own motion. Ark. Sup. Ct. R. 4-2(b)(2); *see also City of Dover v. City of Russellville*, 351 Ark. 557, 95 S.W.3d 808 (2003). The most obvious deficiency is that Sherman failed to include the order amending the divorce decree, entered in October 2013, in her addendum. Our briefing rules specify the documents required to be in the addendum, including all versions of the order being challenged on appeal if the court amended the order. Ark. Sup. Ct. R. 4-2(a)(8)(i). This order is especially important because the original decree awarded Boeckmann certain offsets but did not specify an amount for such offsets; the amended order, however, cures this potential finality problem because it specifies the amounts of the offsets awarded to Boeckmann.

Next, Rule 4-2(a)(8)(i) also requires that all notices of appeal be included in the addendum. Sherman's addendum only contains the notice of appeal she filed on 24 October 2013. But she amended her notice of appeal twice after the circuit court entered its 30

²The Arkansas Supreme Court has granted petitions for review in *Moore* and *Kelly*, as well as taken a third case, *Davis v. Davis*, No. CV-14-533, on certification.

October 2013 order amending the decree. Neither of the amended notices are in the addendum. Also missing from the addendum are the parties' posttrial letter briefs that served as proposed findings of fact as to the division of marital property.³ See Ark. Sup. Ct. R. 4-2(a)(8)(A)(i). Several other documents in the addendum refer to these posttrial letter briefs and the arguments made there.

Another problem, albeit a seemingly persnickety one, is that Sherman bound her abstract in a second volume, separate from the rest of her brief. While this may make the appeal easier to handle, doing so departs from the prescribed order of contents for a brief. See Ark. Sup. Ct. R. 4-2(a)(1)–(8)("[t]he contents of the brief *shall* be in the following order")(emphasis added). This kind of deviation requires a motion that shows good cause for this step. See *Lackey v. Mays*, 100 Ark. App. 386, 388, n.1, 269 S.W.3d 397, 398 (2007). No such motion was filed in this case.

We encourage Sherman to cure these noted deficiencies before refileing the case with this court.

Appeal dismissed.

ABRAMSON and BROWN, JJ., agree.

³Boeckmann's letter brief appears in the record, but Sherman's does not. The circuit court, however, later references letter briefs from both parties. If Sherman did file a letter brief and it was inadvertently omitted from the record, she should take appropriate action to have the record supplemented and then supplement her addendum accordingly.