

ARKANSAS COURT OF APPEALS

DIVISION II
No. CA 10-789

HELEN ELIZABETH VIELE
APPELLANT

V.

LACY LEACH CALDWELL
APPELLEE

Opinion Delivered February 23, 2011

APPEAL FROM THE PULASKI COUNTY
CIRCUIT COURT, TWELFTH DIVISION
[NO. PGD-2009-1293]

HONORABLE ALICE S. GRAY, JUDGE

REBRIEFING ORDERED

ROBIN F. WYNNE, Judge

Appellant Helen Viele appeals from the circuit court's denial of her petition for guardianship. Because Ms. Viele has submitted a brief without a proper addendum, we are unable to address the merits of her arguments at this time.

Arkansas Supreme Court Rule 4-2(a)(8) (2010) requires an appellant to submit a brief including an addendum that contains "true and legible copies of the non-transcript documents in the record on appeal that are essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal." This includes all pleadings on which the circuit court decided each issue. Ark. Sup. Ct. R. 4-2(a)(8)(A)(i). When an appellant submits an insufficient addendum such that the court cannot reach the merits of the case, the appellate court will notify the appellant that he or she will be afforded time in which to cure

the deficiencies and file a substituted abstract, brief, and addendum at his or her own expense. Ark. Sup. Ct. R. 4-2(b)(3).

Ms. Viele's brief is insufficient in that the addendum lacks relevant pleadings essential to confirm jurisdiction and understand the case. Ms. Viele challenges the circuit court's denial of her petition for guardianship; however, the petition is not included in the addendum. The only documents included in the addendum are the notice of appeal, an order granting temporary guardianship, an order continuing the final hearing, and two copies of the order denying permanent guardianship. Our supreme court has held that it is impossible for the appellate court to make an informed decision on the merits of a case without the pleadings and motions on which the circuit court based its decision. *Bryan v. City of Cotter*, 2009 Ark. 172, at 4, 303 S.W.3d 64, 66–67. An order of a circuit court cannot be reviewed for error when the addendum fails to include such documents. *Id.* at 5, 303 S.W.3d at 66–67.

Because Ms. Viele has failed to comply with these rules, we order her to file a substituted addendum and brief within thirty days from the date of entry of our order. If she fails to do so within that time, the circuit court's order denying guardianship may be affirmed for noncompliance with Rule 4-2.

Rebriefing ordered.

HART and BROWN, JJ., agree.