

Cite as 2018 Ark. App. 240

ARKANSAS COURT OF APPEALS

DIVISION I

No. CV-17-843

ANDERSON-TULLY COMPANY
APPELLANT

V.

PATRICIA SCALES VADEN AND
JAMES M. MONCRIEF
APPELLEES

Opinion Delivered: April 11, 2018

APPEAL FROM THE DESHA
COUNTY CIRCUIT COURT,
SOUTHERN DISTRICT
[NO. 21ACV-03-31]

HONORABLE ROBERT BYNUM
GIBSON, JR., JUDGE

REMANDED TO SUPPLEMENT THE
RECORD; REBRIEFING ORDERED

RITA W. GRUBER, Chief Judge

Nonparty appellant Anderson-Tully Company (ATCO) appeals from two orders of the Desha County Circuit Court entered June 23 and July 13, 2017. We issued a previous opinion in *Scales v. Vaden*, 2010 Ark. App. 418, 376 S.W.3d 471 (*Scales*), wherein we affirmed the circuit court’s April 23, 2009 order, which adopted a survey authorizing appellees Patricia Vaden and Michael Moncrief to identify their boundary lines on the land specified in the order. The orders from which ATCO appeals resulted from appellees’ amended application for writ of assistance and motion for contempt filed subsequent to *Scales*. Because the record is missing a document referred to in the July 13, 2017 order and ATCO’s brief does not conform to Arkansas Supreme Court Rule 4-2, we must remand to supplement the record and order rebriefing.

In its argument, ATCO makes numerous citations to “Scales Ab” and “Scales Add,” which refer to the briefs submitted in *Scales*. This is not permitted by our rules. Arkansas Supreme Court Rule 4-2(a)(5) provides that the appellant shall create an abstract of the material parts of all the transcripts in the record. Information in a transcript is material if the information is essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal. Ark. Sup. Ct. R. 4-2(a)(5) (2017). In a second or subsequent appeal, material information from all transcripts filed in any prior appeal must be abstracted. Ark. Sup. Ct. R. 4-2(a)(5)(C).

Pursuant to Arkansas Supreme Court Rule 4-2(a)(8), appellant’s addendum shall include all documents necessary for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal. Thus, any documents from the prior appeal cited in the brief must be included in ATCO’s addendum. Although we encourage counsel to conduct an independent review, we note that the addendum is missing the April 23, 2009 order, which is referenced in the June 23, 2017 order from which ATCO appeals.

Finally, the record does not contain the “case note sheet” referenced as being attached to the circuit court’s order denying ATCO’s motion to vacate and for new trial entered July 13, 2017, from which ATCO appeals. Accordingly, we remand this case to supplement the record to include this document. The addendum would therefore require amending as well.

We encourage counsel to carefully review our rules to ensure that all deficiencies are cured. Appellant has thirty days from the date of this opinion to file a supplemental record

that includes the “case note sheet” referenced in the July 13, 2017 order. After the supplemental record has been filed with this court, appellant will be given fifteen days to file a substituted brief, abstract, and addendum. Appellees may revise or supplement their brief within fifteen days of the filing of ATCO’s substituted brief or may rely on their previously filed brief. Ark. Sup. Ct. R. 4-2(b)(3). Again, we strongly encourage counsel to review our rules and ensure that no further deficiencies exist beyond those identified here.

Remanded to supplement the record; rebriefing ordered.

HARRISON and VAUGHT, JJ., agree.

Bridges, Young, Matthews & Drake PLC, by: *Joseph A. Strode*, for appellant.

Berry Law Firm, P.A., by: *Russell D. Berry* and *Michelle L. Jacobs*, for appellees.