

Cite as 2018 Ark. App. 381

ARKANSAS COURT OF APPEALS

DIVISION I

No. CV-17-200

JOHN ADAMS AND MARIE ADAMS
APPELLANTS

V.

BILL MOODY

APPELLEE

Opinion Delivered: August 29, 2018

APPEAL FROM THE BAXTER
COUNTY CIRCUIT COURT
[NO. 03CV-05-383]

HONORABLE GORDON WEBB,
JUDGE

AFFIRMED

BART F. VIRDEN, Judge

This dispute arises from the Baxter County Circuit Court’s order finding John and Marie Adams in contempt of court for violating a previous order instructing them to comply with restrictive covenants and finding that insufficient evidence supported the Adamses’ counterclaim. The Adamses were ordered to pay \$5,000 in damages to appellee Bill Moody and attorney’s fees and costs in the amount of \$7,710. The Adamses argue that the trial court erred in its decision.

On December 13, 2017, we ordered rebriefing for deficiencies of the Adamses’ abstract, brief, and addendum. See *Adams v. Moody*, 2017 Ark. App. 686. On April 12, 2018, the Adamses filed a substituted abstract, brief, and addendum purporting to comply with our briefing requirements. Appellee refiled his original brief. We affirm the trial court’s decision finding the Adamses in contempt of court and its denial of the Adamses’

counterclaim, and we do so because of noncompliance with Rule 4-2 of the Rules of the Supreme Court and Court of Appeals.

Rule 4-2(b)(3) of the Rules of the Supreme Court and Court of Appeals provides in pertinent part that “[i]f after the opportunity to cure the deficiencies, the appellant fails to file a complying abstract, addendum and brief within the prescribed time, the judgment or decree may be affirmed for noncompliance with the rule.”

Here, the Adamses failed to meet their burden of producing an abstract compliant with Arkansas Supreme Court Rule 4-2(a)(5) which provides that “the appellant shall create an abstract of the material parts of all the transcripts (stenographically reported material) 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.” The abstract shall be an impartial condensation, without comment or emphasis, of the transcript. Ark. Sup. Ct. R. 4-2(a)(5)(B). 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)(i).

In their original brief, the Adamses incorrectly presented the testimony in question-and-answer format, they abstracted only testimony that they believed was favorable to them, and they completely omitted Moody’s thirty-three pages of testimony. The Adamses corrected the format of the abstract; however, on their second attempt, the Adamses again abstracted mainly testimony favorable to them. Also, Moody’s thirty-three-page testimony

has been summarized in four pages, and it is heavily edited to support the Adamses' arguments on appeal.

In our previous order, we held that the Adamses omitted necessary documents from the addendum, and we note that the Adamses supplemented the addendum with the missing materials; however, this did not cure the above-noted deficiencies. Furthermore, the addendum does not comply with the pagination requirements of our rule.

The burden was on appellants to provide us an abstract, addendum and brief that allows us to understand and address the issues presented to us, and they have not done so. Pro se appellants are held to the same standard as those represented by counsel. *See Bell v. Bank of Am., N.A.*, 2012 Ark. App. 104, at 2. The pro se appellants receive no special consideration of their argument and are held to the same standard as a licensed attorney. *Id.* Accordingly, we summarily affirm all issues raised on direct appeal for noncompliance with Rule 4-2 because we have already afforded appellants the opportunity to cure the deficiencies.

Affirmed.

GRUBER, C.J., and WHITEAKER, J., agree.

John Adams and Marie Adams, pro se appellants.

Sanders, Morgan & Clarke PLLC, by: *Roger L. Morgan and Robert S. Clarke*, for appellee.