

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CV-21-612

LYDIA STEWARD AND KENNETH
STEWARD

APPELLANTS

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES AND MINOR
CHILDREN

APPELLEES

Opinion Delivered June 1, 2022

APPEAL FROM THE BENTON
COUNTY CIRCUIT COURT
[NO. 04JV-20-481]

HONORABLE THOMAS E. SMITH,
JUDGE

DISMISSED

LARRY D. VAUGHT, Judge

Appellants Lydia and Kenneth Steward seek to appeal an order entered by the Benton County Circuit Court terminating their parental rights to their children and stepchildren.¹ We dismiss the appeal for lack of jurisdiction.

The requirements of a notice of appeal in dependency-neglect proceedings differ from normal procedure in that Arkansas Supreme Court Rule 6-9(b)(1)(B) (2021) requires that the notice of appeal and designation of record be signed not only by appellants' counsel but also by the appellants themselves, if, as here, they are adults. *Jones v. Ark. Dep't of Hum. Servs.*, 2016

¹The children to whom Lydia and Kenneth's parental rights have been terminated are NM (born May 18, 2004), NS (born April 7, 2006), SM (born June 18, 2007), AM (born April 21, 2009), and TS (born January 9, 2012). Lydia is the mother of NM, SM, AM, and TS, and Lydia is the stepparent of NS. Kenneth is the father of NS and TS, and Kenneth is the stepparent of SM and AM. Lydia and Kenneth are also the parents of YS (born April 29, 2003), but their parental rights were not terminated to her because she turned eighteen during the pendency of this case.

Ark. App. 470, at 1. A notice of appeal in cases that lack the signature of the appellant is deficient. *Id.* (citing *McPherson v. Ark. Dep't of Hum. Servs.*, 2013 Ark. App. 238). Not every defect in a notice of appeal will deprive the appellate court of jurisdiction, but our supreme court has required strict compliance with the appellant-signature requirements of Rule 6-9(b)(1)(B). *Id.* at 1–2. Here, appellants' attorney has signed the notice of appeal for appellants, but Lydia and Kenneth did not. This does not strictly comply with our rules. Therefore, we must dismiss this appeal for lack of jurisdiction.²

There is a second deficiency in the notice of appeal. The notice states:

COMES NOW the defendants, Kenneth Steward and Lydia Steward, by and through their attorney and gives notice to the court and all interested parties that it appeals to the Arkansas Court of Appeals.

Rule 3(e) of the Arkansas Rules of Appellate Procedure—Civil provides that a notice of appeal shall “designate the judgment, decree, order or part thereof appealed from . . . [.]” Ark. R. App. P.—Civ. 3(e)(ii) (2021). Orders not mentioned in a notice of appeal are not properly before the appellate court. *Brown v. United Bank*, 2014 Ark. App. 643, at 5, 448 S.W.3d 726, 730 (citing Ark. R. App. P.—Civ. 3(e)(ii) (2014); *Racine v. Nelson*, 2011 Ark. 50, at 9, 378 S.W.3d 93, 99). In *Brown*, the notice of appeal failed to designate or mention the only final, appealable order in the case; accordingly, we held that appellants' notice of appeal was fatally deficient, there was no substantial compliance, and we dismissed the appeal for lack jurisdiction. *Id.* at 6, 448 S.W.3d at 730. Likewise, Lydia and Kenneth's notice of appeal fails to designate or

²We note that the Arkansas Supreme Court may grant a motion for belated appeal under certain circumstances. *Id.* at 2 (citing *McPherson, supra*); see also *Hall v. Ark. Dep't of Health & Hum. Servs.*, 371 Ark. 15, 262 S.W.3d 601 (2007); *Smith v. Ark. Dep't of Health & Hum. Servs.*, 371 Ark. 425, 266 S.W.3d 694 (2007).

mention the order from which they appeal. This is a separate basis that deprives this court of jurisdiction to review this appeal. Accordingly, we dismiss it.

Dismissed.

HARRISON, C.J., and VIRDEN, J., agree.

Lancaster Law Firm, PLLC, by: *Clinton W. Lancaster*, for separate appellant Kenneth Steward.

Callie Corbyn, Ark. Dep't of Human Services, Office of Chief Counsel, for appellee.

Janet Lawrence, attorney ad litem for minor children.