

Kenneth R. MATTHEWS v. Louis Arthur DODRILL

88-299

763 S.W.2d 93

Supreme Court of Arkansas  
Opinion delivered January 30, 1989  
[Rehearing denied February 27, 1989.]

APPEAL & ERROR — DEFECTIVE NOTICE OF APPEAL — APPEAL DISMISSED. — Where the appellant's notice of appeal did not designate the contents of the record on appeal or that the whole record would constitute the record on appeal; where it did not contain a statement that the transcript, or specific portions thereof had been ordered by the appellant; where it stated four points of appeal, only two of which were specific enough to be understandable or to serve as notice of claimed errors; and where the actual brief listed six points of appeal, some of which clearly were not included in the points stated in the notice of appeal, the notice of appeal was inadequate and prejudicial to the appellee, and the appeal was dismissed.

Appeal from Pulaski Circuit Court, Sixth Division; *David B. Bogard*, Judge; appeal dismissed.

*Appellant*, pro se.

No brief filed.

DAVID NEWBERN, Justice. This appeal must be dismissed for failure of the appellant to comply with the Arkansas Rules of Appellate Procedure.

The appellant, Kenneth R. Matthews, sued the appellee, Louis Arthur Dodrill, alleging tort and contract causes of action. The court directed a verdict in favor of Dodrill on Matthews' claim that Dodrill owed him wages. The other claims were tried to a jury which returned a verdict for Dodrill.

Matthews filed a notice of appeal which did not comply with Ark. R. App. P. 3(e). It did not designate the contents of the record on appeal or that the whole record would constitute the record on appeal, and it did not contain a statement that the transcript, or specific portions thereof had been ordered by the appellant.

Dodrill has not filed a brief in response to that filed by Matthews but has moved to dismiss the appeal on the ground that the failure to designate the record on appeal has deprived him of the opportunity to designate portions of the record which may be missing and which would be necessary in support of his position. He is correct in pointing out that it is the responsibility of the appellant, as provided in Rule 3(e), to designate the record.

The appellant stated four points of appeal in his notice of appeal. Only two of them are specific enough to be understandable or to serve as notice of claimed errors. His brief lists six points of appeal, some of which clearly are not included in the points stated in the notice of appeal.

[1] Under these circumstances, we must agree that the notice of appeal was so defective that Dodrill could not be expected to know whether the entire record would be before the court and, if not, which portions he could expect. All things considered, the notice of appeal was inadequate and prejudicial to Dodrill. *See Jones v. Adcock*, 233 Ark. 247, 343 S.W.2d 779 (1961); *Arkansas Farmers Assn. v. Towns*, 232 Ark. 997, 342 S.W.2d 83 (1961).

Appeal dismissed.