

Thomas Arthur JOHNSON a Minor, by and Through Luwalhati Admana Johnson, His Mother and Legal Guardian, Next Friend, and Attorney *v.* Virginia HARGROVE and Molly Acuff-Willroth, Personally and As School Teachers, and Curtis Spann, Personally and As Principal of Helen Tyson Middle School, Springdale, Arkansas

04-1055

204 S.W.3d 520

Supreme Court of Arkansas  
Opinion delivered March 3, 2005

MOTIONS — MOTION FOR RULE ON CLERK TREATED AS MOTION TO FILE CORRECTED BRIEF — GRANTED — The supreme court treated appellant's motion for rule on clerk as a motion to file a corrected brief; under Rule 4-2(b)(3) of the Supreme Court Rules, the court had the authority to grant fifteen days for rebriefing of a nonconforming brief, appellant was granted fifteen days from March 3, 2005 to cure the deficiencies by filing a corrected abstract, Addendum, and brief to conform to Rule 4-2(a)(5) and (8) of those rules; should she not do so, the order may be affirmed due to noncompliance with the court's rules

Motion for Corrected Brief; granted.

*Lynn Johnson*, for appellant.

*Charles Harwell*, for appellee.

**P**ER CURIAM. On June 22, 2004, the Washington County Circuit Court entered an order in favor of the appellees in this case. On July 14, 2004, Luwalhati Admana Johnson filed a notice of appeal as legal guardian and attorney for her minor son, Thomas Arthur Johnson. On December 1, 2004, Johnson, as legal guardian, attempted to file her appellant's brief and, at the same time, filed a motion in this court to allow a seven-day correction period to begin on January 20, 2005, if the brief was rejected as nonconforming. Also on December 1, 2004, Johnson and her son departed the United States and traveled to the Philippines. On December 1, 2004, according to the docket sheet, Johnson's brief indeed was rejected, because the abstract contained "Abstracted pleadings," there was no testimony in the abstract, and the exhibits were "out of place." On December 2, 2004, the docket sheet also reflects that "This event was tickled for 12/08/04," which we interpret to mean that the Supreme Court

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Clerk's office granted Johnson seven calendar days to file a corrected brief pursuant to Rule 4-4(f)(1) of the Arkansas Supreme Court Rules. On January 6, 2005, this court without comment denied Johnson's motion for extension of time to correct her brief.

On January 19, 2005, Johnson and her son returned to the United States. Johnson now claims that she did not receive notice of the rejected brief until January 28, 2005. On February 1, 2005, she filed this motion for rule on clerk, admitting that her brief failed to conform to this court's rules. Johnson excuses her failure to abstract testimony because she contends that "only discussions and/or arguments between counsel and the trial court" occurred at trial. She further claims that she has placed the exhibits in the Addendum. Hargrove does not respond.

[1] We treat this motion for rule on clerk as a motion to file a corrected brief. Under Rule 4-2(b)(3) of our Supreme Court Rules, this court has the authority to grant fifteen days for rebriefing of a nonconforming brief. We grant Johnson fifteen days from the date of this opinion to cure the deficiencies by filing a corrected abstract, Addendum, and brief to conform to Rule 4-2(a)(5) and (8) of those rules. Should she not do so, the order may be affirmed due to noncompliance with our rules. *See Ark. Sup. Ct. R. 4-2(b)(3) (2004)*.

Motion for corrected brief granted.