

Ross TROUT, et al. v. Charles MATHIS and Brenda
MATHIS

86-7

708 S.W.2d 629

Supreme Court of Arkansas
Opinion delivered May 5, 1986

1. APPEAL & ERROR — FAILURE TO ABSTRACT PROPERLY. — Where none of the orders forming the basis of the appeal were abstracted, and there was no means of evaluating the actions of the courts in the context of appellant's contentions, the case was affirmed because of its flagrantly deficient abstract. [Sup. Ct. R. 9(e)(2).]
2. APPEAL & ERROR — PRO SE APPEALS — ABSTRACTING REQUIREMENTS THE SAME AS FOR THOSE REPRESENTED BY ATTORNEY. — The abstracting requirement is the same for parties who appeal *pro se* as it is for those who are represented by attorneys.

Appeal from Boone Circuit Court; *Robert W. McCorkindale*, Judge; affirmed.

Ross Trout, pro se.

Gary Isbell, for appellees.

DAVID NEWBERN, Justice. We affirm in this case because the abstract of the record provided by the appellants, *pro se*, is flagrantly deficient. Rules of the Arkansas Supreme Court and Court of Appeals 9(e)(2).

[1] The appellants appeal from a dismissal of their claim. They argue the case was improperly dismissed pursuant to Ark. R. Civ. P. 41. They contend the case was once dismissed voluntarily in an Arkansas court and then again by a United States District Court for lack of subject matter jurisdiction, and that the second dismissal was not of the sort, as provided in Rule 41, to preclude them from bringing the claim again. There is no abstract of the order of the court with respect to the voluntary dismissal. Nor are the federal court order and the order appealed from here abstracted. A justice reading the abstract supplied has no means of evaluating these actions of the courts in the context of the appellants' contentions with respect to Rule 41.

[2] For this court to continue to operate efficiently each justice must be able to decide the case on the basis of the abstract

without having to refer to the record. We cannot do that in this case. The abstracting requirement is the same for parties who appeal *pro se* as it is for those who are represented by attorneys. *Bryant v. Lockhart*, 288 Ark. 302, 705 S.W.2d 9 (1986); *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984).

Affirmed.

PURTLE, J., not participating.
