

CITY OF DOVER, Arkansas *v.*
CITY OF RUSSELLVILLE, Arkansas

02-308

95 S.W.3d 808

Supreme Court of Arkansas
Opinion delivered January 23, 2003

APPEAL & ERROR — ABSTRACT FLAGRANTLY DEFICIENT — SUBSTITUTED ABSTRACT AND ADDENDUM ORDERED. — It is a practical impossibility for seven justices to examine a single transcript, and they will not do so; because appellant's brief failed to include an abstract of the hearing on the motion to dismiss and photocopies of pleadings that were essential to an understanding of the case and the court's jurisdiction on appeal, it was found to be deficient such that the supreme court could not reach the merits of the case; therefore, appellant was ordered to file a substituted abstract and addendum to conform to Ark. Sup. Ct. R. 4-2(a)(5) and (7); mere modifications of the original brief will not be accepted.

Appeal from Pope Circuit Court; *John S. Patterson*, Judge; substituted abstract and addendum ordered.

Michael Robbins, for appellant.

Dunham & Faught, P.A., by: *James Dunham*, for appellee.

PER CURIAM. Appellant, City of Dover appeals the decision of the Circuit Court of Pope County granting a motion to dismiss. The trial court found that the City of Dover lacked standing to challenge the City of Russellville's annexation ordinance and the vote approving that annexation. Although not raised by appellee City of Russellville, we do not reach the merits of City of Dover's case because of a failure to comply with our abstract and addendum requirements. See Ark. Sup. Ct. R. 4-1 and 4-2. We may raise issues of deficiencies on our own motion. Ark. Sup. Ct. R. 4-2(b)(2). We note that the Addendum contains only a copy of the order appealed from. It does not include photocopies of the complaint, the motion to dismiss, or the notice of appeal. Furthermore, the hearing on the motion that is the subject of this appeal has not been abstracted.

[1] It is a practical impossibility for seven justices to examine a single transcript filed with this court, and we will not do so. *Cleveland v. Estate of Stark*, 324 Ark. 461, 923 S.W.2d 857 (1996). In the absence of this vital information being properly abstracted, according to the rules of this court, it is impossible for this court to make an informed decision on the merits of this case. Because City of Dover's brief fails to include an abstract of the hearing on the motion to dismiss and photocopies of pleadings that are essential to an understanding of the case and the court's jurisdiction on appeal, we find it to be deficient such that we cannot reach the merits of the case. Therefore, appellant City of Dover has fifteen days from the date of this opinion to file a substituted abstract and addendum to conform to Rule 4-2(a)(5) and (7). See *In re: Modification of the Abstracting System*, 345 Ark. 626 (2001) (*per curiam*); Ark. Sup. Ct. R. 4-2(b)(3). Mere modifications of the original brief will not be accepted. *Id.* According to Rule 4-2(b)(3), if appellant City of Dover fails to file a complying abstract and addendum within the prescribed time, the judgment or decree may be affirmed for noncompliance with the Rule.