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ARKANSAS COURT OF APPEALS

DIVISION II
No. CV-17-563

LARRY CRAIGMYLE

APPELLANT

V.

MATTHEW MARGOLIS, D.O.

APPELLEE

Opinion Delivered: December 13, 2017

APPEAL FROM THE CRAIGHEAD
COUNTY CIRCUIT COURT,
WESTERN DISTRICT
[NO. 16JCV-16-551]

HONORABLE PAMELA HONEYCUTT,
JUDGE

SUPPLEMENTATION AND
MODIFICATION OF THE RECORD;
REBRIEFING ORDERED

WAYMOND M. BROWN, Judge

This is a pro se appeal from the circuit court's order granting appellee's motion to dismiss. Appellant raises eight points on appeal, the majority of which have subpoints included; however, we are unable to address the merits. We remand for supplementation and modification of the record and order rebriefing.

The circuit court clerk's certificate states that the record contains forty-six typewritten pages. However, fifty-one pages have been inserted after the index but prior to appellee's motion to dismiss; the pages have been labeled from 6A to 6YY.¹ This insertion has been reflected on the index page by a handwritten note: "Complaint 6A" and "Answer

¹It appears that the pages were inserted by appellant as the pages appear to be the attachments submitted with his notice of appeal.

6GG.”² Arkansas Rule of Appellate Procedure–Civil 6 states that “[t]he clerk of the circuit court that entered the judgment, decree, or order from which the appeal is taken shall certify the record as being a true and correct copy of the record as designated by the parties.” As submitted, the record before this court differs dramatically in size from the record certified by the circuit court clerk, being more than double the size certified.

Arkansas Supreme Court Rule 1-2(c) states that the first numbered paragraph of the jurisdictional statement shall concisely state all issues of law raised on appeal, in the terms and circumstances of the case but without unnecessary detail.³ It goes on to state that the second numbered paragraph shall state the following:

“I express a belief, based on a reasoned and studied professional judgment, that this appeal raises (no) (the following) question(s) of legal significance for jurisdictional purposes.” Then, the appellant shall discuss as many of the issues listed in Rule 1-2(b) which are relevant to the appeal. Each issue should be stated with accuracy, brevity, and clarity, and should include the citations of any cases sought to be overruled or perceived to be in conflict.⁴

Appellant’s jurisdictional statement fails to include a concise statement of the issues of law raised on appeal and fails to include a statement of his belief of the issues of legal significance raised by his appeal.

²From the inserted pages, it appears that appellee filed an answer on August 23, 2016, found on page 6L, and a second answer on November 10, 2016, found on page 6GG.

³Ark. Sup. Ct. R. 1-2(c)(1)(B)(i).

⁴Ark. Sup. Ct. R. 1-2(c)(1)(B)(ii).

Arkansas Supreme Court Rule 3-3 requires that the record include the complaint and answer from below. The complaint and the answers were submitted in the pages added by either appellant or the circuit court clerk; however, they were submitted without certification from the circuit clerk of their inclusion. Therefore, the complaint and answers are not properly included in the record.⁵ Furthermore, this court notes that appellee’s motion to dismiss appears in the record at pages 6P and 7; appellee’s brief in support of his motion appears in the record at pages 6R and 9;⁶ appellant’s reply in opposition to appellee’s motion to dismiss appears in the record at pages 6W and 20;⁷ the order granting appellee’s motion to dismiss appears at pages 6BB and 33; and the notice of appeal appears at pages 6CC and 34. Arkansas Supreme Court Rule 3-3(c) states that “[n]o part of the record shall be copied more than once.” Accordingly, all duplicates should be removed from the record.

Arkansas Supreme Court Rule 4-2(a)(5) states that “[t]he abstract shall be an impartial condensation, without comment or emphasis, of the transcript.” Rather than

⁵Despite being improperly included in the record, the complaint and both answers appear in the addendum in violation of Arkansas Supreme Court Rule 4-2(a)(8), which states that the addendum shall not contain any document that is not in the record.

⁶Attachments to the brief in support do not follow the copy at page 6R, while they follow the copy at page 9.

⁷Attachments to the appellant’s reply in opposition—numbered as pages 5 through 12 in the original—do not follow the copy at page 6W, while they follow the copy at page 20.

providing an impartial condensation of the proceedings—though admittedly short—appellant lists a few of his contentions in his one-page abstract.

Arkansas Supreme Court Rule 4-2(a)(6) requires a concise statement of the case without argument, which should be sufficient to enable the court to understand the nature of the case, the general factual situation, and the action taken below.⁸ Appellant's statement of the case impermissibly includes statements regarding his actions outside the legal proceedings and his self-asserted confusion.

Finally, Arkansas Supreme Court Rule 4-2(a)(8) states that the addendum shall contain true and legible copies of the non-transcript documents in the record on appeal that are essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal. While appellant has included appellee's brief in support of his motion to dismiss and appellant's reply in opposition to appellee's motion to dismiss, appellant failed to include all of the exhibits attached to said documents.

Accordingly, we remand for supplementation and modification of the record to correct the above-referenced issues within thirty days. Upon filing of a proper record, we order rebriefing. Appellant must submit a compliant abstract, brief, and addendum, correcting the above-referenced deficiencies within fifteen days from the date on which the supplemental record is filed.⁹ We encourage appellant to review Rule 4-2 of the Rules of

⁸*Boykin v. Crockett Adjustment Ins.*, 2012 Ark. App. 685, at 1.

⁹*Ryburn v. Ryburn*, 2014 Ark. App. 108, at 5, 432 S.W.3d 102, 106 (citing *Ryburn v. Ryburn*, 2012 Ark. App. 256 (citing *Perry v. State*, 287 Ark. 384, 699 S.W.2d 739 (1985));

the Arkansas Supreme Court and Court of Appeals to ensure that the supplemental record, brief, and addendum comply with the rules and that no additional deficiencies are present.

Supplementation and modification of the record; rebriefing ordered.

ABRAMSON and MURPHY, JJ., agree.

Larry Craigmyle, pro se appellant.

Waddell, Cole & Jones, PLLC, by: *Paul D. Waddell, Justin E. Parkey, and Samuel T.*

Waddell, for appellee.

Walker v. State, 283 Ark. 339, 676 S.W.2d 460 (1984) (pro se litigants are held to the same standards as attorneys.)