

Cite as 2019 Ark. App. 309  
**ARKANSAS COURT OF APPEALS**

DIVISION III  
No. CR-18-956

VICTORIA ANN DYCUS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 29, 2019

APPEAL FROM THE STONE COUNTY  
CIRCUIT COURT  
[NO. 69CR-16-138]

HONORABLE TIM WEAVER, JUDGE

REBRIEFING ORDERED

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**N. MARK KLAPPENBACH, Judge**

Victoria Ann Dycus appeals her conviction for first-degree murder of her four-year-old daughter. On appeal, Dycus argues that there was no substantial evidence that she either struck the child herself or that she was liable as an accomplice to her boyfriend, James Hagen Glenn, by failing to make a proper effort to prevent the commission of the offense despite a legal duty to do so. Due to deficiencies in Dycus's brief, however, we cannot reach the merits of her arguments at this time. We order rebriefing.

Arkansas Supreme Court Rule 4-2(a)(5)(A) requires that all material parts of trial transcripts be abstracted. Exhibits necessary to decide the issues on appeal, including CDs, must be included in the addendum. Ark. Sup. Ct. R. 4-2(a)(8)(A). Dycus's brief does not comply with these provisions. At trial, recordings of four police interviews with Dycus were admitted into evidence and played for the jury. Dycus has erroneously placed

photocopies of the trial transcript containing these interviews in her addendum; she has failed to abstract these interviews or include the admitted CDs in her addendum. Rebriefing is warranted due to this deficiency. See *Sandrelli v. State*, 2014 Ark. App. 444.

Dycus's abstract is also deficient for failing to include all material parts of the testimony given at trial. We note specifically that material portions of the testimony of Dr. Stephen Erickson were not abstracted regarding prior injuries to the child, including injuries that would have bled significantly and should have been seen by a doctor. Also not abstracted was his testimony that the child had been struck in the stomach before and that she would not have been able to keep any food down on the day that she died. The abstract of Brandie Lee's testimony is deficient as it fails to include her testimony regarding different explanations given to her for injuries she observed on the child. The abstract of Dycus's testimony is deficient, in part, for failing to include her testimony regarding the child's report to her that Glenn had hit her in the stomach as well as her testimony regarding her suspicions and changed mindset on Glenn's role in her daughter's death. While not an exhaustive list, all of this testimony is essential to resolve the sufficiency challenge on appeal. On rebriefing, Dycus shall ensure that all material testimony is included in the abstract.

Finally, we note that Dycus's abstract refers to documents in the addendum without providing page numbers to the addendum. Rule 4-2(a)(5)(A) provides that if an exhibit referred to in the abstract is in the addendum, then the abstract shall include a reference to the addendum page where the exhibit appears. We also encourage Dycus to sufficiently

proofread her abstract to ensure its accuracy and reduce the number of typographical errors.

Because Dycus's abstract and addendum are inadequate, we order her to file a substituted abstract, brief, and addendum that complies with our rules within fifteen days of this opinion. *See* Ark. Sup. Ct. R. 4-2(b)(3). We remind counsel that the examples we have noted are not to be taken as an exhaustive list of deficiencies and ask that counsel carefully review the rules to ensure that no other deficiencies exist.

Rebriefing ordered.

WHITEAKER and VAUGHT, JJ., agree.

*Mark Alan Jesse*, for appellant.

*Leslie Rutledge*, Att'y Gen., by: *Chris R. Warthen*, Ass't Att'y Gen., for appellee.