

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA12-947

AMADO MANCIA

APPELLANT

V.

ARKANSAS DEP'T OF HUMAN
SERVICES

APPELLEE

Opinion Delivered April 24, 2013

APPEAL FROM THE CARROLL
COUNTY CIRCUIT COURT,
EASTERN DISTRICT
[NOS. JV-09-86, JV-10-54]HONORABLE GERALD K. CROW,
JUDGEMOTION TO WITHDRAW DENIED;
REBRIEFING ORDERED;
REMANDED TO SUPPLEMENT
RECORD**BILL H. WALMSLEY, Judge**

Appellant Amado Mancía appeals from the Carroll County Circuit Court's termination of parental rights to his three children, K.M.M. (DOB: 10-04-05), D.M. (DOB: 9-26-07), and A.M.M. (DOB: 5-10-10).¹ Appellant's counsel has filed a motion to withdraw and a no-merit brief pursuant to *Linker-Flores v. Arkansas Department of Human Services*, 359 Ark. 131, 194 S.W.3d 739 (2004), and Ark. Sup. Ct. R. 6-9(i). We deny counsel's motion to withdraw and order rebriefing. The matter is also remanded to supplement the record.

¹The trial court also terminated the parental rights of the children's mother, Denis Maldonado, who was represented by separate counsel below. We note that, although counsel for Maldonado filed a notice of appeal from the termination order, she has taken no further action in the matter. To this court's knowledge, Maldonado's counsel has not been relieved of representation. See Ark. Sup. Ct. R. 6-10 (2012) (setting forth trial counsel's duties with regard to dependency-neglect appeals).

At the termination hearing, the Arkansas Department of Human Services (DHS) entered into evidence, over counsel's objection, transcripts of the adjudication and permanency-planning hearings. While the adjudication-hearing transcript is in the record, the transcript from the permanency-planning hearing is not. Arkansas Supreme Court Rule 6-9(c)(1) (2012) provides that the record on appeal shall be limited to the transcript of the hearing from which the order on appeal arose, any petitions, pleadings, and orders relevant to the hearing from which the order on appeal arose, *all exhibits entered into evidence at that hearing*, and all orders entered in the case prior to the order on appeal. Ark. Sup. Ct. R. 6-9(c)(1) (emphasis added). We do not speak to the propriety of the trial court's having introduced these transcripts into evidence at the termination hearing; however, they were admitted as exhibits and are the subject of an adverse ruling. If anything material to either party is omitted from the record, this court may direct that a supplemental record be certified and transmitted. Ark. R. App. P.-Civ. 6(e) (2012). Therefore, this court orders that the record be supplemented to include the transcript of the permanency-planning hearing. Arkansas Supreme Court Rule 4-2(a)(5)(A) (2012) provides that all material information recorded in a transcript must be abstracted. Accordingly, this court orders rebriefing for counsel to abstract only the *material* information in the transcripts from both the adjudication and permanency-planning hearings. Our review of the record for adverse rulings is limited to the termination hearing. *Lewis v. Ark. Dep't of Human Servs.*, 364 Ark. 243, 217 S.W.3d 788 (2005).

The argument section of a no-merit brief shall list all adverse rulings to the appellant

made by the circuit court on all objections, motions, and requests made by the party at the hearing from which the appeal arose and explain why each adverse ruling is not a meritorious ground for reversal. Ark. Sup. Ct. R. 6-9(i)(1)(A). Counsel's argument section addresses eight adverse rulings; however, other adverse rulings appear in the record. For example, counsel was confronted with an objection and an adverse ruling when he asked caseworker Sandra Craig what level of responsibility DHS expected from appellant; when he asked Denise Gibson, a supervisor at DHS, whether she believed the children did not feel safe and secure with their parents; and when he asked Angela Cox, a licensed clinical social worker at Ozark Guidance, her opinion "in her professional capacity" as to whether the children were adoptable. Also, although it did not affect the trial court's decision to terminate parental rights, at the conclusion of the termination hearing, the trial court denied counsel's request that appellant receive a final visit with his children.

We deny counsel's motion to withdraw at this time, and we remand to supplement the record within thirty days of this opinion. We further order counsel to file a substituted brief, curing all deficiencies, within fifteen days from the date he files the supplemental record. Ark. Sup. Ct. R. 4-2(b)(3).

Motion to withdraw denied; rebriefing ordered; remanded to supplement record.

GLOVER and WHITEAKER, JJ., agree.

Casey D. Copeland, for appellant.

No response.