

Cite as 2009 Ark. 527

**SUPREME COURT OF ARKANSAS**

No. 08-144

EDWARD LOVELESS

APPELLANT,

VS.

ROY AGEE, LARRY NORRIS,  
ET AL.

APPELLEES,

**Opinion Delivered** October 29, 2009APPEAL FROM THE JEFFERSON  
COUNTY CIRCUIT COURT,  
NO. CV-2007-781-2,  
HON. ROBERT H. WYATT, JR.,  
JUDGEREBRIEFING ORDERED**PER CURIAM**

Appellant Edward Loveless appeals the circuit court's order dismissing his petition for declaratory judgment and injunctive relief. Because his brief fails to comply with our rules, we order rebriefing.

Our addendum rule for incarcerated appellants proceeding pro se provides, in pertinent part:

(C) Addendum. The appellant's brief shall contain an Addendum, which consists of photocopies of documents from the record. It is the duty of the appellant to include in the Addendum such parts of the record, but only such parts, as are material to the points to be argued in the appellant's brief. The Addendum shall include true and legible photocopies of the original pleading, order from which the appeal is taken, and the notice of appeal. The Addendum shall also include any other relevant pleadings, jury instructions, documents, or exhibits essential to an understanding of the case. If parts of a prior trial or proceeding are important to the understanding of an issue, those parts of the record of that trial or proceeding must be included in the Addendum. (E.g., an appellant arguing in a Rule 37.1 appeal that his attorney allowed an improper jury instruction at trial must include the jury instruction at issue in the Addendum.) The appellee may prepare a supplemental Addendum if material on which the appellee

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relies is not in the appellant's Addendum. Only documents that are part of the trial court record may be included in the Addendum.

Ark. Sup. Ct. R. 4-7(c)(1)(C) (2009). Rule 4-7(c)(3)(C) sets forth the procedure to be followed when an appellant has failed to supply this court with an adequate brief:

(3) Whether or not the appellee has called attention to deficiencies in the appellant's abstract or Addendum, the Court may address the question at any time. If the Court finds the abstract or Addendum to be deficient such that the Court cannot reach the merits of the case, or such as to cause an unreasonable or unjust delay in the disposition of the appeal, the Court will notify the appellant that he or she will be afforded an opportunity to cure any deficiencies, and has fifteen days within which to file a substituted abstract, Addendum, and brief. Mere modifications of the original brief by the appellant will not be accepted by the Clerk. Upon the filing of such a substituted brief by the appellant, the appellee will be afforded an opportunity to revise or supplement its brief. If after the opportunity to cure the deficiencies, the appellant fails to file a complying abstract, Addendum and brief within the prescribed time, the trial court's order may be affirmed for noncompliance with the Rule.

In reviewing Loveless's brief, we have found his brief deficient in that he has failed to include the motion to dismiss filed by appellees. Because Loveless has failed to comply with our rules, we order Loveless to file a substituted brief, which complies with our rules, within fifteen days from the date of entry of this order. We further encourage Loveless, prior to filing the substituted brief, to review our rules and the substituted brief to ensure that no additional deficiencies are present.

Rebriefing ordered.