

Cite as 2011 Ark. 84

**SUPREME COURT OF ARKANSAS**

No. 10-568

MARTIN WILLS,

APPELLANT,

VS.

JANET LACEFIELD,

APPELLEE,

**Opinion Delivered** February 24, 2011APPEAL FROM THE BAXTER  
COUNTY CIRCUIT COURT,

NO. DR-08-388-3,

HON. JOHN PUTMAN, JUDGE,

REBRIEFING ORDERED.**PER CURIAM**

We accepted certification of this case from the court of appeals because the issues presented are ones of first impression, needing clarification and development of the law, and involving the applicability of the rules of civil procedure. Our jurisdiction is pursuant to Ark. Sup. Ct. R. 1-2(b)(1), (b)(5), & (b)(6) (2010). We accepted certification of the following questions: (1) Is a case under the Domestic Abuse Act, codified at Ark. Code Ann. §§ 9-15-101 through 9-15-217 (Repl. 2009), a “special proceeding” within the meaning of Ark. R. Civ. P. 81 (2010), so that the rules of civil procedure do not apply; (2) If the Domestic Abuse Act cases are not “special proceedings,” can the respondent file a counterclaim in the case; (3) If so, must the counterclaim be filed prior to the hearing; and (4) If not, is the counterclaim a nullity that the circuit court must formally dismiss in order to give finality to the order of protection.

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On December 11, 2009, appellee Janet Lacefield, a resident of Baxter County, filed a petition and accompanying affidavit seeking an order of protection against appellant Martin Wills, a resident of Tennessee. An ex parte order of protection was issued by the Baxter County Circuit Court on December 14, 2009, and a hearing was scheduled for January 12, 2010. Appellant was served with the petition and ex parte order on January 6, 2010, and on January 8, 2010, he filed a motion for continuance by fax. Appellant did not appear at the January 12, 2010 hearing on the petition. The circuit court denied appellant's motion for a continuance and granted the order of protection for a period of five years. The written order was entered on January 15, 2010. On January 19, 2010, appellant filed an answer and counterclaim for abuse of process and an amended answer and counterclaim for abuse of process. On January 25, 2010, appellant filed a motion to set aside the "default judgment," arguing that under Ark. R. Civ. P. 6(c), he was entitled to ten days' notice but was given only seven days' notice, which was not sufficient time for him to prepare. The circuit court denied the motion by order entered on February 8, 2010, finding that the Domestic Abuse Act only required a minimum of five days' notice prior to the hearing. Appellant filed his notice of appeal on March 9, 2010.

On appeal, appellant, proceeding pro se, challenges the circuit court's order as being unsupported by the evidence, an abuse of discretion, erroneous, and void. Appellant's brief is not in compliance with our rules because he has not included the answer and counterclaim and the first amended answer and counterclaim in his addendum. As a result, we are unable

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to address the certified questions that involve our jurisdiction to hear this appeal. Rule 4-2(a)(8)(A)(i) (2010) of the Rules of the Arkansas Supreme Court and Court of Appeals provides in relevant part that the addendum must include

any other *pleading* or document in the record that is essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal. For example, docket sheets, superseded pleadings, discovery related documents, proffers of documentary evidence, jury instructions given or proffered, and exhibits (such as maps, plats, photographs, computer disks, CDs, DVDs).

(Emphasis supplied.) Pro se appellants are held to the same standards as attorneys and must follow the rules of appellate procedure. See *Kennedy v. Byers*, 368 Ark. 516, 247 S.W.3d 525 (2007) (per curiam). Accordingly, we order appellant to file a substituted brief curing the deficiencies in the addendum by including the answer and counterclaim and the first amended answer and counterclaim within fifteen days from the date of entry of this order. If appellant fails to do so within the prescribed time, the order appealed from may be affirmed for noncompliance with Rule 4-2. After service of the substituted brief, appellee shall have the opportunity to file a responsive brief in the time prescribed by the supreme court clerk, or appellee may choose to rely on the brief previously filed in this appeal. While we have noted the above-mentioned deficiency, we encourage appellant to review Rule 4-2 and the entire record to ensure that no additional deficiencies are present.

Rebriefing ordered.