

IN THE COURT OF APPEALS OF THE CHOCTAW NATION OF OKLAHOMA

IN THE MATTER OF:

R.D.,  
A Deprived Child

AC-21-3

ROBERT DAVIS

Respondent/Appellant

JD-18-6

vs.

FILED  
CHOCTAW NATION OF OKLAHOMA  
APPELLATE COURT CLERK

CHOCTAW NATION OF OKLAHOMA

JUL 28 2022

Petitioner/Appellee

COURT CLERK

**ORDER OF DISMISSAL**

BY 

This matter is before this court on a Motion to Dismiss filed herein by the CHOCTAW NATION OF OKLAHOMA, petitioner herein. The Respondent herein filed his appeal from an order terminating his parental rights filed by the trial court on August 4, 2021. The Respondent filed his petition in error on September 3, 2021. The Respondent has filed no designation of record in this case. The designation of record should have been filed concurrently with or prior to filing a copy of the petition in error in the trial court. *Choc.Ct.App.R. 1.28(b)*. Further our Rules provide that in an appeal from a District Court to the Court of Appeals in juvenile, paternity, or adoption cases, the designation of record SHALL be filed in the trial court within ten days of the date of the order appealed. *Choc.Ct.App.R. 1.28(b)(2)*.

The Petitioner has filed its motion to dismiss the appeal for abandonment. The Petitioner has cited an Oklahoma case for its authority noting that the case is not precedent but potentially persuasive. The case is *Haynes v Barnett*, 483 P.2d 1140 (Okla. 1971). The Oklahoma Court held

that “Unexcused failure by a plaintiff in error to timely designate the record on appeal pursuant to the applicable civil appeal rules constitutes an abandonment of the appeal and the appeal becomes subject to dismissal.” We find that this case is persuasive, and we therefore adopt the principles stated therein. In the instant case the Petitioner filed its motion to dismiss in this court on June 16, 2022. The motion clearly points out that eight months have passed without the Respondent designating a record on appeal. Our rules state that after a motion to dismiss an appeal is filed, the opposing party has 15 days to file a response. *Choc.Ct.App.R. 1.6(c)(2)*. That the Respondent has failed to respond to the motion to dismiss by Petitioner. Accordingly after examining the paperwork of Petitioner, the appeal in this case is dismissed for abandonment of the appeal by the Respondent.

IT IS SO ORDERED.

ALL JUSTICES CONCUR