

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA01-1014

NORTH CAROLINA COURT OF APPEALS

Filed: 4 June 2002

STATE OF NORTH CAROLINA

v.

Cabarrus County  
No. 00 CRS 8794

MARK TIMOTHY SATTERFIELD,  
Defendant.

Appeal by defendant from judgment entered 27 February 2001 by Judge Michael E. Beale in Cabarrus County Superior Court. Heard in the Court of Appeals 28 May 2002.

*Attorney General Roy Cooper, by Special Deputy Attorney General Isaac T. Avery, III, and Assistant Attorney General Patricia A. Duffy, for the State.*

*Hartsell, Hartsell, & White, P.A., by H. Jay White, Sr., for defendant-appellant.*

HUDSON, Judge.

Defendant seeks review of the trial court's denial of his motion to suppress evidence obtained as the result of a traffic stop. However, the record on appeal does not demonstrate the basis of this Court's jurisdiction. No copy of the judgment is included. See N.C.R. App. P. 9(a)(3)(g). Furthermore, although this Court has obtained a copy of the judgment of the Cabarrus County Superior Court, entered 27 February 2001 upon defendant's plea of guilty to the charge of impaired driving, defendant has not shown that he

preserved the right to appeal the denial of his motion to suppress pursuant to N.C. Gen. Stat. § 15A-979(b) (1999).

Under N.C. Gen. Stat. § 15A-979(b), "a defendant bears the burden of notifying the state and the trial court during plea negotiations of the intention to appeal the denial of a motion to suppress, or the right to do so is waived after a plea of guilty." *State v. McBride*, 120 N.C. App. 623, 625, 463 S.E.2d 403, 404 (1995), *aff'd*, 344 N.C. 623, 476 S.E.2d 106 (1996) (per curiam). Defendant must present this Court with a record demonstrating his compliance with this notice requirement. *State v. Brown*, 142 N.C. App. 491, 492-93, 543 S.E.2d 192, 193 (2001). Because the materials before us do not establish that defendant preserved the right to appeal the denial of his motion to suppress, we dismiss the appeal "without prejudice to defendant's right to seek an evidentiary hearing in superior court determining whether or not the guilty plea was entered reserving defendant's right to appeal the denial of his motion to suppress." *Id.* at 493, 543 S.E.2d at 194. If it is found that defendant reserved the right to appeal, he may petition this Court for review by writ of certiorari. *Id.*

Dismissed.

Judges GREENE and TYSON concur.

Report per Rule 30(e).