

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA01-1165

NORTH CAROLINA COURT OF APPEALS

Filed: 16 July 2002

TONY ALLAN BOWLING,

Plaintiff,

v.

Moore County
No. 99 CVD 1117

PENELOPE J. BOWLING,

Defendant.

Appeal by plaintiff from order entered 26 February 2001 by Judge Lillian B. Jordan in Moore County District Court. Heard in the Court of Appeals 23 May 2002.

Robinson Law Office, by Rodney W. Robinson, for plaintiff-appellant.

Cheshire, Parker, Schneider, Wells & Bryan, by Jonathan McGirt, for defendant-appellee.

PER CURIAM.

Plaintiff appeals from an order denying his motion to reduce alimony. Defendant has moved to dismiss the appeal, pursuant to Rules 25(b) and 34 of the Rules of Appellate Procedure, due to plaintiff-appellant's failure to comply with the provisions of the appellate rules.

North Carolina Rule of Appellate Procedure 28(b)(6) [formerly N.C.R. App. P. 28(b)(5)] requires:

(b) An appellant's brief in any appeal *shall*

contain, under appropriate headings, and in the form prescribed by Rule 26(g) and the Appendixes to the rules

(6) An argument, to contain the contentions of the appellant with respect to each question presented. Each question shall be separately stated. *Immediately following each question shall be a reference to the assignments of error pertinent to the question, identified by their numbers and by the pages at which they appear in the printed record on appeal.* Assignments of error not set out in the appellant's brief, or in support of which no reason or argument is stated or authority cited, will be taken as abandoned. (Emphasis added).

Plaintiff-appellant's brief does not comply with this rule. The Rules of Appellate Procedure are mandatory and a failure to follow the rules subjects an appeal to dismissal. *Steingress v. Steingress*, 350 N.C. 64, 65, 511 S.E.2d 298, 299 (1999) (citing *Jim Walter Corp. v. Gilliam*, 260 N.C. 211, 132 S.E.2d 313 (1963); *Wiseman v. Wiseman*, 68 N.C. App. 252, 314 S.E.2d 566 (1984)).

This Court has noted that when the appellant's brief does not comply with the rules by properly setting forth exceptions and assignments of error with reference to the transcript and authorities relied on under each assignment, it is difficult if not impossible to properly determine the appeal.

Id. at 66, 511 S.E.2d at 299 (citing *State v. Newton*, 207 N.C. 323, 329, 177 S.E. 184, 187 (1934)); *See also Bradshaw v. Stansberry*, 164 N.C. 356, 356, 79 S.E. 302, 302 (1913) ("It is therefore necessary to have rules of procedure and to adhere to them, and, if we relax them in favor of one, we might as well abolish them."); *Bustle v. Rice* 116 N.C. App. 658, 659-60, 449 S.E.2d 10, 11 (1994) ("[t]he Rules of Appellate Procedure are mandatory; it is the duty

of an appellate court to enforce them uniformly.”)

An appellant's failure to reference the assignment of error supporting an argument effects an abandonment of the assignment of error. *Hines v. Arnold*, 103 N.C. App. 31, 404 S.E.2d 179 (1991). Plaintiff-appellant having abandoned each of his assignments of error by his failure to comply with N.C.R. App. P. 28(b)(6), the appeal is dismissed.

Appeal dismissed.

Panel consisting of:

Judges MARTIN, TIMMONS-GOODSON and CAMPBELL, JJ.

Report per Rule 30(e).