

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA11-318
NORTH CAROLINA COURT OF APPEALS

Filed: 15 November 2011

STATE OF NORTH CAROLINA

v.

Durham County
Nos. 06 CRS 52356, 07 CRS 41064

QUINTON DARCEL STEELE

Appeal by defendant from judgments entered 24 May 2010 by Judge Henry W. Hight in Durham County Superior Court. Heard in the Court of Appeals 17 October 2011.

Attorney General Roy Cooper, by Associate Attorney General Christina S. Hayes, for the State.

Paul Y. K. Castle for defendant appellant.

McCULLOUGH, Judge.

On 1 October 2007, Quinton D. Steele ("defendant") entered a guilty plea to felony child abuse and attempted common law robbery. The trial court entered judgment pursuant to defendant's plea and imposed concurrent sentences of 29 to 44 and 8 to 10 months' imprisonment for defendant's respective convictions. The court suspended defendant's sentences and placed defendant on supervised probation for 36 months.

Defendant's probation officer filed violation reports on 16 December 2009, alleging defendant violated the condition of his probation that he remain within the jurisdiction of the court unless granted written permission to leave by the court or the probation officer. After a hearing on 24 May 2010, the trial court entered judgments revoking defendant's probation and activating his sentences. Defendant appeals.

Defendant's sole argument on appeal is that the trial court abused its discretion in revoking his probation. Defendant argues the State failed to present any evidence that he was in fact in violation of the terms of his probation. However, this Court cannot reach the merits of defendant's appeal, because there is no evidence in the record before us showing that defendant gave proper notice of appeal from the judgments revoking his probation and activating his sentences.

A party may appeal the judgment or order of a superior court in a criminal case by "(1) giving oral notice of appeal at trial, or (2) filing notice of appeal with the clerk of superior court and serving copies thereof upon all adverse parties within fourteen days after entry of the judgment or order[.]" N.C.R. App. P. 4(a)(1), (2) (2011). Additionally, the record on appeal in criminal actions must contain "a copy of the notice of appeal

or an appropriate entry or statement showing appeal taken orally[.]” N.C.R. App. P. 9(a)(3)(h).

Our review of the record on appeal and the transcript of the probation revocation hearing reveals no evidence that defendant gave either oral or written notice of appeal from the judgments entered against him. In his brief to this Court, defendant does state that he gave notice of appeal, and notes that Appellate Entries were made on 1 June 2010. However, this Court has held appellate entries are insufficient to satisfy Rule 4 of the North Carolina Rules of Appellate Procedure. *State v. Blue*, 115 N.C. App. 108, 113, 443 S.E.2d 748, 751 (1994). Because defendant failed to show that he has given proper notice of appeal as required by Rule 4, this Court “lack[s] jurisdiction to consider Defendant’s appeal, which must, therefore, be dismissed.” *State v. Hughes*, ___ N.C. App. ___, ___, 707 S.E.2d 777, 779 (2011).

Dismissed.

Judges McGEE and ELMORE concur.

Report per Rule 30(e).