

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-800

No. COA22-442

Filed 6 December 2022

Guilford County, No. 20CVS8544

SHAKERRIA BRASWELL, Plaintiff,

v.

MONARCH AUTO RENTALS, INC. d/b/a RENT A WRECK and DAVID LANZER,
Defendants.

Appeal by plaintiff from order entered 5 November 2021 by Judge Timothy G. Gould in Guilford County Superior Court. Heard in the Court of Appeals 4 October 2022.

Shakerria J. Braswell, pro se, for plaintiff-appellant.

Speaks Law Firm, PC, by John R. Fonda, for defendants-appellees.

GORE, Judge.

¶ 1 Plaintiff seeks appeal from a summary judgment in favor of defendant. Plaintiff filed suit against defendants raising multiple claims. The parties engaged in discovery and filed cross motions for summary judgment. On 5 November 2021, the trial court filed an Order denying plaintiff's motion for summary judgment,

granting defendants' motion for summary judgment, and dismissing plaintiff's claims with prejudice.

¶ 2

This Court acquires jurisdiction through compliance with Rule 3 of the North Carolina Rules of Appellate Procedure. *See Dogwood Dev. & Mgmt. Co. v. White Oak Transp. Co.*, 362 N.C. 191, 197–98, 657 S.E.2d 361, 365 (2008). Rule 3 sets out the requirements for appellate jurisdiction in this Court, including the requirements of “filing a notice of appeal with the clerk of superior court” and timeliness of that filing. N.C.R. App. P. 3(a). When a notice of appeal lacks a file stamp, this Court may not “assume” timeliness of appeal. *Bradley v. Cumberland County*, 262 N.C. App. 376, 382, 822 S.E.2d 416, 420 (2018). In such a situation, this Court lacks jurisdiction and must dismiss the appeal. *Id.*; *see also Booth v. Utica Mut. Ins.*, 308 N.C. 187, 189, 301 S.E.2d 98, 99–100 (1983) (“Failure to give timely notice of appeal in compliance with . . . Rule 3 of the North Carolina Rules of Appellate Procedure is jurisdictional, and an untimely attempt to appeal must be dismissed.”).

¶ 3

Plaintiff's notice of appeal lacks any file stamp. Without this file stamp, this Court is unable to determine if the notice of appeal was filed with the superior court clerk, and when it was filed. This is a violation of Rule 3 and prevents this Court from reviewing the appeal on its merits. Accordingly, we dismiss for lack of jurisdiction.

BRASWELL V. MONARCH AUTO RENTALS, INC.

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Opinion of the Court

DISMISSED.

Chief Judge STROUD and Judge MURPHY concur.

Report per Rule 30(e).