

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA01-179

NORTH CAROLINA COURT OF APPEALS

Filed: 5 February 2002

STATE OF NORTH CAROLINA

v.

Mecklenburg County
No. 98 CRS 19481

KENNETH LESTER GETZ

Appeal by defendant from order entered 16 June 2000 by Judge Timothy L. Patti in Mecklenburg County Superior Court. Heard in the Court of Appeals 14 January 2002.

Attorney General Roy Cooper, by Assistant Attorney General Allison S. Corum, for the State.

The Law Firm of Charles L. Alston, Jr., by Charles L. Alston, Jr. for defendant appellant.

BRYANT, Judge.

Defendant appeals from the denial of his motion for appropriate relief. The State has moved to dismiss the appeal. The record on appeal does not contain the motion for appropriate relief or a transcript of the motion hearing. Moreover, the trial court's order summarily denies the motion without elaboration as to any claims raised by defendant therein. Therefore, we are unable to review the trial court's order upon the materials put before us by defendant. Under N.C.R. App. P. 9(a), "review is solely upon the record on appeal and the verbatim transcript of proceedings, if

one is designated." It is the duty of appellants to see that the record is complete. *Collins v. Talley*, ___ N.C. App. ___, 553 S.E.2d 101 (2001). Accordingly, the appeal is dismissed. In addition, we note that no appeal of right lies from a motion for appropriate relief filed more than ten days after entry of judgment. See N.C.G.S. § 15A-1414 and § 15A-1422(b) (1999).

Defendant seeks to raise an additional issue related to the jury instructions given at his criminal trial in February of 2000. The record reflects defendant's convictions for assault on a child under twelve years of age and false imprisonment for which he received suspended sentences and probation. Defendant never filed notice of appeal from these judgments, which were entered on 3 February 2000. See N.C.R. App. P. 4(a)(2) (requiring such notice to be filed within ten days after entry of judgment). The notice of appeal in the record before us designates for review only Judge Patti's 16 June 2000 order denying defendant's motion for appropriate relief. See N.C.R. App. P. 4(b) (providing that notice of appeal "shall designate the judgment or order from which appeal is taken"). "Without proper notice of appeal, this Court acquires no jurisdiction." *Brooks, Com'r of Labor v. Gooden*, 69 N.C. App. 701, 707, 318 S.E.2d 348, 352 (1984). This issue is not properly before us.

Motion to dismiss allowed; appeal dismissed.

Judges WYNN and THOMAS concur.

Report per Rule 30(e).