

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA01-907

NORTH CAROLINA COURT OF APPEALS

Filed: 4 June 2002

STYLE CREST HOME PRODUCTS,  
Plaintiff,

v.

Person County  
No. 98 CVD 473

DEPENDABLE HOUSING, INC.,  
Defendant.

Appeal by petitioner Richard M. Pearman, Jr. from order entered 26 February 2001 by Judge L. Mike Gentry in Person County District Court. Heard in the Court of Appeals 28 May 2002.

*Spirakis & Haar, P.A., by David C. Haar, for plaintiff-appellee.*

*Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P., by Derek J. Allen, for petitioner-appellant Richard M. Pearman, Jr.*

HUDSON, Judge.

Plaintiff filed a complaint against Dependable Housing, Inc. (Dependable) and its president, Richard M. Pearman, Jr. (petitioner), in Person County District Court, seeking to recover a debt for goods delivered to defendant prior to 20 August 1997. In its Answer, Dependable admitted that its "principal place of business [was] located in Roxboro, North Carolina, County of Person." On 27 October 1999, Dependable executed a Confession of

Judgment in the amount of \$5,178.13. In return for the Confession of Judgment, plaintiff voluntarily dismissed petitioner from the action. Although undocumented in the Record on Appeal, it appears plaintiff subsequently obtained an execution against Dependable's property in Person County in March of 2000, which was returned as "Unsatisfied" by the Person County Sheriff.

Plaintiff filed post-judgment interrogatories to discover assets, and Dependable responded on 22 August 2000. Plaintiff then scheduled an examination of Dependable's corporate officer, petitioner, in supplemental proceedings to be held before the Person County Clerk of District Court on 27 October 2000. See N.C. Gen. Stat. § 1-352 (2001). On 23 October 2000, petitioner filed a motion to transfer the venue of the examination to Guilford County. The district court denied the motion, and petitioner filed a timely notice of appeal.

Generally, the district court's order denying petitioner's motion to transfer venue would not be appealable because it is interlocutory. See *Conseco Finance Servicing Corporation v. Dependable Housing, Inc.* (COA01-870, filed 7 May 2002). "Interlocutory orders are those made during the pendency of an action which do not dispose of the case, but instead leave it for further action by the trial court in order to settle and determine the entire controversy." *Carriker v. Carriker*, 350 N.C. 71, 73, 511 S.E.2d 2, 4 (citations omitted), *reh'g denied*, 350 N.C. 385, 536 S.E.2d 70 (1999). However, a party may appeal an interlocutory order "where delaying the appeal will irreparably impair a

substantial right of the party." *Hudson-Cole Dev. Corp. v. Beemer*, 132 N.C. App. 341, 344, 511 S.E.2d 309, 311 (1999). "This Court has previously announced that an order denying a motion for change of venue affects a substantial right because it 'would work an injury to the aggrieved party which could not be corrected if no appeal was allowed before the final judgment.'" *Thompson v. Norfolk S. Ry. Co.*, 140 N.C. App. 115, 121-22, 535 S.E.2d 397, 401 (2000) (quoting *DesMarais v. Dimmette*, 70 N.C. App. 134, 136, 318 S.E.2d 887, 889 (1984)). Even though petitioner's appeal is interlocutory, his appeal is proper because venue affects a substantial right.

Petitioner argues that he is not subject to examination in Person County under N.C.G.S. § 1-352, because Dependable "has not maintained an office in Person County since at least January 1999." This assertion is directly contradicted by the Confession of Judgment, sworn by petitioner on Dependable's behalf on 27 October 1999, which states, "[t]he Defendant Dependable Housing, Inc. is a duly registered corporation in the State of North Carolina with a principal place of business in Roxboro." Moreover, throughout these proceedings, Dependable and petitioner have identified Roxboro as the location of Dependable's principal and sole place of business. The district court's order is affirmed.

Affirmed.

Judges GREENE and TYSON concur.

Report per Rule 30(e).