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NO. COA05-1333

NORTH CAROLINA COURT OF APPEALS

Filed: 6 June 2006

SANDRA D. LYNCH,  
Plaintiff,

v.

Mecklenburg County  
No. 05 CVS 1289

TIMOTHY X. TWITTY and  
NADIA ABDELAZIM,  
Defendants.

Appeal by plaintiff from order entered 5 July 2005 by Judge Albert Diaz in Mecklenburg County Superior Court. Heard in the Court of Appeals 29 May 2006.

*Sandra D. Lynch, pro se, plaintiff appellant.*

*Shumaker, Loop & Kendrick, LLP, by Scott M. Stevenson and Patricia Wilson Magee, for Nadia Abdelazim, defendant appellee.*

McCULLOUGH, Judge.

Plaintiff Sandra D. Lynch appeals from an order denying her motion for entry of default judgment, denying her motion for summary judgment, dismissing the claims alleged in the complaint, and granting defendant Nadia Abdelazim's motion to dismiss the complaint. We dismiss plaintiff's appeal because she has failed to comply with the North Carolina Rules of Appellate Procedure.

Rule 10 of the North Carolina Rules of Appellate Procedure

provides in relevant part:

(a) [T]he scope of review on appeal is confined to a consideration of those assignments of error set out in the record on appeal in accordance with this Rule 10. . . .

\* \* \* \*

(c) *Assignments of error.*

(1) *Form; Record references.* A listing of the assignments of error upon which an appeal is predicated shall be stated at the conclusion of the record on appeal, in short form without argument, and shall be separately numbered. Each assignment of error shall, so far as practicable, be confined to a single issue of law; and shall state plainly, concisely and without argumentation the legal basis upon which error is assigned. An assignment of error is sufficient if it directs the attention of the appellate court to the particular error about which the question is made, with clear and specific record or transcript references.

N.C.R. App. P. 10 (2006).

"The North Carolina Rules of Appellate Procedure are mandatory and 'failure to follow these rules will subject an appeal to dismissal.'" *Viar v. N.C. Dep't of Transp.*, 359 N.C. 400, 401, 610 S.E.2d 360, 360 (2005) (per curiam) (quoting *Steingress v. Steingress*, 350 N.C. 64, 65, 511 S.E.2d 298, 299 (1999)), *reh'g denied*, 359 N.C. 643, 617 S.E.2d 662 (2005). "[T]hese rules apply to everyone -- whether acting *pro se* or being represented by all of the five largest law firms in the state." *Bledsoe v. County of Wilkes*, 135 N.C. App. 124, 125, 519 S.E.2d 316, 317 (1999) (dismissing appeal where *pro se* appellant violated many of the appellate rules).

In this case, plaintiff included the following six assignments

of error in the record on appeal:

1. The Plaintiff was not severed [sic] with an Answer to her complaint [sic] until April 15, 2005. The Answer was due by March 7, 2005.
2. Therefore, the Defendant, Nadia Abdelazim is in default of the Summons as the Plaintiff stated in her Motion for Summary Judgment on March 15, 2005.

**R.p.2 (Motion for Summary Judgment)**

3. The Plaintiff filed a Motion for Summary and Default Judgment. The Plaintiff called and had the Office of Administrative Hearing [sic] to place a Default Entry on the case on or about March 15, 2005.
4. The Defendant filed a Notice of Hearing for a Dismissal in the hearing on June 7, 2005. The Defendant did not present any information to support Dismissal for Rule 12(b)(6).

**R.p.3 (Defendant Answer).**

5. The Defendant was allowed to provide a copy of a contract from The Children Law Center a day after the trial. The Plaintiff was not privy to the evidence before the trial (Rule 26); and a representative from The Children Law Center stated on March 7, 2005, in custody hearing[, ] that they did not have any of the Plaintiff['s] paperwork from her file.
6. A mediation date as well as a trial date had been set for the case. However, the Defendant Nadia Abdelazim['s] name was not included on the Mediation Order[, ] even though the Order for Dismissal and Denial was not sign[ed] by Judge Diaz with the denials and dismissals.

**R.p.6 (Stipulation).**

(Emphasis in original.)

We conclude plaintiff's assignments of error are in substantial violation of N.C.R. App. P. 10(c)(1). They are not "confined to a single issue of law[;]" do not state "plainly, concisely and without argumentation the legal basis upon which error is assigned[;]" do not "direct[] the attention of the appellate court to the particular error about which the question is made[;]" and three of them do not include "record or transcript references." See, e.g., *Department of Transp. v. Rowe*, 353 N.C. 671, 674, 549 S.E.2d 203, 207 (2001) (alleged error "not properly presented" to this Court where plaintiff failed to comply with "Rule 10(c) of the North Carolina Rules of Appellate Procedure [which] requires that an appellant state the legal basis for all assignments of error"), cert. denied, 534 U.S. 1130, 151 L. Ed. 2d 972 (2002). Rather, plaintiff's assignments of error are merely recitations of facts alleged by plaintiff and fail to assert any error by the trial court. Thus, they do not preserve any issues for appellate review.

The Rules of Appellate Procedure also set forth the format to which an appellant's brief must adhere. Appellate Rule 28(a) provides "[t]he function of all briefs required or permitted by these rules is to define clearly the questions presented to the reviewing court and to present the arguments and authorities upon which the parties rely in support of their respective positions thereon." N.C.R. App. P. 28(a) (2006). Appellate Rule 28(b)(6) provides that "[i]mmediately 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." N.C.R. App. P. 28(b)(6).

Here, plaintiff sets out three distinct questions in the argument section of her brief. None of the questions, however, reference any assignments of error in the record. Further, other than quoting from cases and statutes, most of which are irrelevant and inapplicable to the issues in this case, plaintiff fails to set forth any arguments in support of her purported "assignments of error" or in support of her questions presented.

In addition to the above rule violations, we note the following rule violations: (1) the index of the contents of the record does not correctly identify the page on which each document appears in the record as is required by Rule 9(a)(1)(a), and (2) plaintiff failed to set forth the standard of review in her brief to this Court as is required by Rule 28(b)(6).

Our Supreme Court has reiterated that the Rules of Appellate Procedure "must be consistently applied." *Viar*, 359 N.C. at 402, 610 S.E.2d at 361. Because of plaintiff's numerous rule violations, we dismiss this appeal.

Appeal dismissed.

Judges HUDSON and STEELMAN concur.

Report per Rule 30(e).