

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA05-1362

NORTH CAROLINA COURT OF APPEALS

Filed: 6 June 2006

IN THE MATTER OF:
C.S. & C.A.S.

Randolph County
Nos. 04 J 21-22

Appeal by respondent from order entered 3 May 2005 by Judge Jayrene R. Maness in Randolph County District Court. Heard in the Court of Appeals 20 April 2006.

David A. Perez for Randolph County Department of Social Services.

Christopher G. Daniel for Guardian ad Litem.

Terry F. Rose for respondent-appellant.

CALABRIA, Judge.

Stanley S. ("respondent") appeals from a permanency planning order, determining that the permanent plan for C.S. and C.A.S. ("the minor children") is termination of parental rights and adoption. We dismiss respondent's appeal for failure to comply with the North Carolina Rules of Appellate Procedure.

Respondent is the biological father and Monica S. is the biological mother of the minor children. On 11 February 2004, the Randolph County Department of Social Services ("D.S.S.") filed juvenile petitions, alleging that the minor children were neglected and dependent within the meaning of N.C. Gen. Stat. §§ 7B-101 (9),

(15) (2003). Specifically, the petitions alleged that the minor children were neglected as a result of domestic violence between respondent and Monica S. as well as drug addictions of Monica S. The petitions further alleged that the minor children were dependent because respondent and Monica S. were "unable to provide for [the minor children's] care or supervision and lack[ed] an appropriate alternative child care arrangement." The trial court subsequently granted D.S.S. nonsecure custody of the minor children. On 8 April 2004, upon stipulation of the parties, the trial court then adjudicated the minor children neglected as a result of the substance abuse and domestic violence. Additionally, the trial court determined it was in the best interests of the minor children that they remain in the custody of D.S.S.

The trial court conducted review hearings of this matter on both 1 July 2004 and 7 October 2004. At both review hearings, the trial court determined it was in the best interests of the minor children that they remain in the custody of D.S.S. Then, on 7 April 2005 at an initial permanency planning hearing, the trial court ordered that "the best plan of care to achieve a safe, permanent home for [the minor children] within a reasonable period of time is termination of parental rights and adoption." At that hearing, respondent stated he was willing to undergo a drug screen. On 11 April 2005, respondent arrived at D.S.S. with a shaved head, so when D.S.S. requested a drug screen on 12 April 2005, they informed respondent that body hair would be used for the hair follicle drug screen. When respondent reported for his hair

follicle screen, he had shaven every piece of hair on his body, including pubic hair, so D.S.S. never obtained a hair follicle test on respondent. The trial court subsequently reduced the 7 April 2005 order to writing and executed the order on 3 May 2005. From this order, respondent appeals.

We initially address whether respondent has complied with the mandatory North Carolina Rules of Appellate Procedure so as to properly preserve his assignments of error for appellate review. In the case *sub judice*, respondent failed to comply with N.C. R. App. P. 28(b)(6) (2006), which states, in pertinent part:

. . . Each question shall be separately stated. *Immediately 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. . . . The argument shall contain a concise statement of the applicable standard(s) of review for each question presented, which shall appear either at the beginning of the discussion of each question presented or under a separate heading placed before the beginning of the discussion of all the questions presented. . .

N.C. R. App. P. 28(b)(6) (2006). Respondent failed to: 1) place references to the assignments of error *immediately following* the question presented, 2) identify his assignments of error by the page number at which they appear in the record, and 3) include the applicable standards of review for each question "at the beginning of the discussion of each question presented or under a separate heading."

Our Supreme Court has recognized, "The North Carolina Rules of Appellate Procedure are mandatory and failure to follow these rules

will subject an appeal to dismissal." *Viar v. North Carolina Dep't of Transp.*, 359 N.C. 400, 401, 610 S.E.2d 360, 360 (2005) (citations and quotations omitted). The rationale supporting strict enforcement is that "the Rules of Appellate Procedure must be strictly applied; otherwise, the Rules become meaningless, and an appellee is left without notice of the basis upon which an appellate court might rule." *Viar*, 359 N.C. at 402, 610 S.E.2d 361 (citations and quotations omitted). Additionally, as recently clarified, "this Court may not review an appeal that violates the Rules of Appellate Procedure even though such violations neither impede our comprehension of the issues nor frustrate the appellate process." *Munn v. North Carolina State University*, __ N.C. __, __, 626 S.E.2d 270, 270 (2006), *rev'g per curiam for the reasons stated in* __ N.C. App. __, __, 617 S.E.2d 335, 339 (2005) (Jackson, J., dissenting) (citations and quotations omitted). For the foregoing reasons, we dismiss respondent's appeal based on his failure to comply with the mandatory Rules of Appellate Procedure. See *Munn*, *supra*; *Viar*, *supra*.

Dismissed.

Judges McCULLOUGH and STEELMAN concur.

Report per Rule 30(e).