

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA11-1398  
NORTH CAROLINA COURT OF APPEALS

Filed: 21 August 2012

ROBERT ALLEN SARTORI,  
Plaintiff,

v.

Jackson County  
No. 10 CVS 266

COUNTY OF JACKSON, ET AL  
(JCJ); DOCTOR STEVEN P. DEWEESE;  
NURSE, CATHY BARNES,  
Defendants.

Appeal by plaintiff from order entered 7 July 2011 by Judge Bradley B. Letts in Jackson County Superior Court. Heard in the Court of Appeals 6 August 2012.

*Robert Allen Sartori, pro se, for plaintiff-appellant.*

*No brief, for defendants-appellees.*

MARTIN, Chief Judge.

Plaintiff Robert Allen Sartori appeals from the trial court's order dismissing his claim for medical malpractice and failure to provide medical treatment. Since plaintiff failed to provide proof that he gave notice of appeal as required by the North Carolina Rules of Appellate Procedure, we must dismiss the appeal.

Although more detailed background facts may be found in this Court's prior opinion in *Sartori v. County of Jackson*, \_\_ N.C. App. \_\_, 714 S.E.2d 210 (2011) (unpublished), the basic facts are as follows. It appears that plaintiff is currently serving a sentence in the custody of the North Carolina Department of Correction. On 15 April 2010, he petitioned the Jackson County Superior Court for leave to file a complaint against Jackson County, Dr. Steven P. Dewese, and Nurse Cathy Barnes ("defendants") alleging negligence and medical malpractice. The trial court entered an order dismissing plaintiff's complaint pursuant to Rule 9(j) of the Rules of Civil Procedure. Plaintiff filed a motion for relief from the court's order; the trial court denied the motion on 2 July 2010.

Plaintiff appealed, and this Court issued an opinion on 5 July 2011 vacating the trial court's order and remanding this case to the trial court with directions to the trial court to conduct a frivolity review pursuant to N.C. Gen. Stat. § 1-110(b) (2011).

On 7 July 2011, the trial court entered an order again dismissing plaintiff's complaint. Plaintiff attempts to appeal to this Court.

Plaintiff raises several substantive claims challenging the trial court's ruling. However, as an initial matter, we note that the record is devoid of any indication that plaintiff gave proper and timely notice of appeal, which is required to invoke this Court's jurisdiction.

Pursuant to the Rules of Appellate Procedure, a party in a civil case "may take appeal by filing notice of appeal with the clerk of superior court and serving copies thereof upon all other parties within" the proper time period. N.C.R. App. P. 3(a). "The provisions of Rule 3 are jurisdictional, and failure to follow the requirements thereof requires dismissal of an appeal." *Abels v. Renfro Corp.*, 126 N.C. App. 800, 802, 486 S.E.2d 735, 737 (citation omitted), *disc. review denied*, 347 N.C. 263, 493 S.E.2d 450 (1997).

Although the record contains a notice of appeal, the notice is neither dated nor file-stamped, nor is it accompanied by a certificate of service showing proof of service on the other parties. Since the record does not establish that plaintiff properly and timely gave notice of appeal from the trial court's order, this Court has no jurisdiction over the matter, and the appeal must be dismissed.

Dismissed.

Judges STEPHENS and ERVIN concur.

Report per Rule 30(e).