

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA13-406  
NORTH CAROLINA COURT OF APPEALS

Filed: 15 October 2013

SARAH MORALES (NOW ANDERSON),  
Plaintiff,

v.

Pitt County  
No. 07 CVD 2177

AARON MORALES,  
Defendant.

Appeal by plaintiff from order entered 14 November 2012 by Judge David A. Leech in Pitt County District Court. Heard in the Court of Appeals 30 September 2013.

*David C. Sutton for plaintiff-appellant.*

*No brief filed for defendant-appellee.*

HUNTER, Robert C., Judge.

Plaintiff appeals from an order finding her in civil contempt. For the reasons discussed herein, we dismiss the appeal.

Plaintiff and defendant are divorced and have one child together. Defendant lives in Pitt County, North Carolina, and plaintiff lives in South Carolina. On or about 18 December 2007, a custody order was entered awarding the parties joint

custody and providing that "Defendant's custodial periods shall be every other weekend, every Father's day and for at least two (2) weeks during the summer beginning January 11, 2008." The parties were to meet at the mall in Greensboro, North Carolina to exchange the child for visitation. On 10 July 2012, defendant filed a "Motion for Order to Show Cause" why plaintiff should not be held in contempt for failing to comply with the custody order. A hearing was set for 20 September 2012 at 10:00 a.m. in Pitt County. However, the matter could not be reached on that date and it was continued to 24 October 2012 at 11:30 a.m. On 24 October 2012, the trial court conducted a hearing and entered an order on 14 November 2012 holding plaintiff "in civil contempt for failure to adhere to the Orders of this Court." Plaintiff did not appear at the hearing and was not represented by counsel at the hearing. Plaintiff filed written notice of appeal on 17 December 2012.

"A person found in civil contempt may appeal in the manner provided for appeals in civil actions." N.C. Gen. Stat. § 5A-24 (2011). In civil actions, notice of appeal must be filed and served "within thirty days after entry of judgment if the party has been served with a copy of the judgment within the three day

period prescribed by Rule 58 of the Rules of Civil Procedure[.]”  
N.C. R. App. P. 3(c)(1).

In order to confer jurisdiction on the state's appellate courts, appellants of lower court orders must comply with the requirements of Rule 3 of the North Carolina Rules of Appellate Procedure. The provisions of Rule 3 are jurisdictional, and failure to follow the rule's prerequisites mandates dismissal of an appeal.

*Bailey v. N.C. Dep't of Revenue*, 353 N.C. 142, 156, 540 S.E.2d 313, 322 (2000) (citations omitted).

Here, plaintiff was served with a copy of the order within the three day period prescribed by Rule 58. However, plaintiff's notice of appeal was not filed within thirty days after entry of the order. Thus, plaintiff's notice of appeal was not in compliance with Rule 3, and we dismiss plaintiff's appeal.

APPEAL DISMISSED.

Judges BRYANT and McCULLOUGH concur.

Report per Rule 30(e).