

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA14-509  
NORTH CAROLINA COURT OF APPEALS

Filed: 18 November 2014

RAYMOND EARL DICKERSON,  
dba T.L. PERKINSON  
WRECKER SERVICE,  
Plaintiff-Appellee,

v.

Vance County  
No. 12-CVD-593

EMMA VICTORIA JOHNSON  
HOWARD,  
Defendant-Appellant.

Appeal by Defendant from order entered 31 March 2014 by Judge Daniel F. Finch in District Court, Vance County. Heard in the Court of Appeals 3 November 2014.

*No brief filed for Plaintiff-Appellee.*

*Emma Victoria Howard, Defendant-Appellant, pro se.*

McGEE, Chief Judge.

The facts and procedural history of this case are difficult to discern, as the record and brief presented by Defendant Emma Victoria Johnson Howard ("Defendant") are rife with violations of the North Carolina Rules of Appellate Procedure, and fail to follow any logical progression. Apparently, Defendant reported

to the Vance County Sheriff's Office on 7 February 2012 that her 1988 Volvo ("the Volvo") had been stolen. The Volvo was located by a Granville County Sheriff's Deputy on that same date, and the Vance County Sheriff's Office was informed on 8 February 2012. Defendant was notified on 8 February 2012 that the Volvo had been recovered. Defendant was given the contact information for Raymond Earl Dickerson, d/b/a T.L. Perkinson Wrecker Service ("Plaintiff"), the towing company holding the Volvo.

Defendant did not retrieve the Volvo, and Plaintiff filed a "Complaint to Enforce Possessory Lien on Motor Vehicle" on 4 April 2012, claiming \$1,880.00 in unpaid expenses related to repairs, towing, and storage costs resulting from Defendant's failure to retrieve the Volvo. The matter was heard in small claims court and the magistrate ruled in Plaintiff's favor by judgment entered on 6 June 2012. The judgment ordered transfer of the title to the Volvo to Plaintiff so that Plaintiff could sell the Volvo and recover on its lien.

Defendant appealed to district court. Plaintiff moved for summary judgment on 30 July 2012. The trial court granted Plaintiff's motion for summary judgment by order filed 4 September 2012, and ordered that title to the Volvo be transferred to Plaintiff in order that Plaintiff could sell the vehicle and recover the judgment in his favor which, by that

time, had grown to \$5,636.75. Defendant filed a "Motion for New Trial and Relief from Judgment" on 20 September 2012. According to Defendant's "Relief from Judges [sic] Order" filed 21 May 2013, the trial court entered an order on 19 April 2013, in which Defendant's 20 September 2012 motion "had been disposed of by [the] presiding judge . . . on April 19, 2013 because [D]efendant failed to appear or answer and prosecute her motion." However, Defendant does not include this 19 April 2013 order in the record. Defendant filed a "Petition for an Ex-Parte Non-Domestic Temporary Restraining Order" on 5 August 2013.

Defendant's motions were heard on 31 March 2014, and an order was entered 31 March 2014, in which the trial court found that: "Defendant presented no evidence to support her motion for relief from summary judgment" and the trial court further found "that Defendant has failed to present evidence of" any mistakes or excusable neglect warranting relief from the 10 September 2012 summary judgment order. Defendant purports to appeal from the 31 March 2014 order.

There is no valid notice of appeal from the 31 March 2014 order contained in the record. There is a purported notice of appeal dated 30 April 2014, but it does not contain a file stamp as required by Rule 3 of our appellate rules.

Any party entitled by law to appeal from a judgment or order of a superior or district court rendered in a civil action or special proceeding may take appeal by *filing* notice of appeal with the clerk of superior court and serving copies thereof upon all other parties within the time prescribed by subsection (c) of this rule.

N.C.R. App. P. 3(a) (2013) (emphasis added). “The provisions of Rule 3 are jurisdictional, and failure to follow the rule's prerequisites mandates dismissal of an appeal.” *Dogwood Dev. & Mgmt. Co., LLC v. White Oak Transp. Co.*, 362 N.C. 191, 197, 657 S.E.2d 361, 365 (2008) (citations omitted). We dismiss Defendant's appeal.

We further note that none of the issues Defendant attempts to argue on appeal are directly related to the 31 March 2014 order from which she has purportedly appealed. There is no record evidence of Defendant having appealed from the 10 September 2012 grant of summary judgment. “Proper notice of appeal requires that a party shall designate the judgment or order from which appeal is taken . . . [.] Without proper notice of appeal, this Court acquires no jurisdiction.” *Atchley Grading Co. v. West Cabarrus Church*, 148 N.C. App. 211, 212, 557 S.E.2d 188, 188-89 (2001) (citations and quotation marks omitted). The rules of appellate procedure “apply to everyone - whether acting *pro se* or being represented by all of the five largest law firms in the state. Because plaintiff violated many

of the appellate rules, his appeal must be dismissed, notwithstanding his *pro se* status." *Bledsoe v. County of Wilkes*, 135 N.C. App. 124, 125, 519 S.E.2d 316, 317 (1999). Additionally, we have reviewed this case on its merits and conclude that Defendant's arguments are without merit. *Id.*

Dismissed.

Judges HUNTER, Robert C. and BELL concur.

Report per Rule 30(e).