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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-299

Filed: 5 December 2017

In the Office of Administrative Hearings, No. 16 OSP 10316

THOMAS E. FREEMAN JR., Petitioner,

v.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES CENTRAL REGIONAL HOSPITAL and WHITAKER PRTF, Respondent.

Appeal by petitioner from order entered on or about 14 December 2016 by Judge Donald W. Overby in the Office of Administrative Hearings. Heard in the Court of Appeals 13 November 2017.

*Attorney General Joshua H. Stein, by Assistant Attorney General Joseph E. Elder, for respondent-appellee N.C. Department of Health and Human Services Central Regional Hospital.*

*Thomas E. Freeman, Jr., pro se, petitioner-appellant.*

STROUD, Judge.

On 21 October 2016, petitioner filed a petition for a contested case hearing in the Office of Administrative Hearings (“OAH”), alleging that a 28 October 2015 written warning for unacceptable personal conduct due to attendance issues was arbitrary and capricious and thus his rights to due process and equal protection under

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the Fifth and Fourteenth Amendments to the United States Constitution were violated. Respondents filed a motion to dismiss on the grounds that OAH lacked jurisdiction over the matter; petitioner failed to state a claim upon which relief can be granted; petitioner failed to properly serve respondent; and OAH could not exercise personal jurisdiction over respondent. OAH entered a final decision on or about 14 December 2016 dismissing the case with prejudice finding that it lacked subject matter jurisdiction. Petitioner purports to appeal from the final decision.

We must dismiss petitioner's appeal because the record before us is insufficient to vest our Court with jurisdiction to consider the appeal as petitioner failed to file a notice of appeal. *See Brooks, Com'r of Labor v. Gooden*, 69 N.C. App. 701, 707, 318 S.E.2d 348, 352 (1984) ("Without proper notice of appeal, this Court acquires no jurisdiction."). Without a notice of appeal, this Court has no jurisdiction to review petitioner's appeal. *See id.* This appeal is dismissed.

DISMISSED.

Chief Judge McGEE and Judge DILLON concur.

Report per Rule 30(e).