An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-633

No. COA21-53

Filed 16 November 2021

Cumberland County, No. 20CVD50

SHARONDA MCKOY, Plaintiff,

v.

MARC ROBINSON, Defendant.

Appeal by defendant from order entered 25 September 2020 by Judge Luis J. Olivera in Cumberland County District Court. Heard in the Court of Appeals 24 August 2021.

Marc Robinson pro se.

Sharonda McKoy pro se, no brief.

GORE, Judge.

¶ 1 Defendant Marc Robinson appeals *pro se* from a No-Contact Order for Stalking or Nonconsensual Sexual Conduct. Defendant's substantial violations of the North Carolina Rules of Appellate Procedure impede this Court's ability to conduct a meaningful review. Accordingly, we dismiss defendant's appeal.

I. Appellate Rules Violations

¶ 2 In *Dogwood Dev. & Mgmt. Co., LLC v. White Oak Transp. Co.,* our North

Carolina Supreme Court identified three categories of appellate rule violations: "(1) waiver occurring in the trial court; (2) defects in appellate jurisdiction; and (3) violation of nonjurisdictional requirements." 362 N.C. 191, 194, 657 S.E.2d 361, 363 (2008). While "a party's failure to comply with nonjurisdictional rule requirements normally should not lead to dismissal of the appeal[,]" it may so in the event those violations are "gross" or "substantial." *Id.* at 198-99, 657 S.E.2d at 365-66. Although we are mindful of defendant's *pro se* status in this case, 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." *Bledsoe v. Cnty. of Wilkes*, 135 N.C. App. 124, 125, 519 S.E.2d 316, 317 (1999). In the case *sub judice*, we are confronted with several nonjurisdictional defects to an extent that "impairs the court's task of review, frustrates the adversarial process," and warrants dismissal. *Id.* at 200, 657 S.E.2d at 366-67 (*purgandum*).

A. Filing dates, Signatures, Verification of Documents

¶ 3 Rule 9(b)(3) of the North Carolina Rules of Appellate Procedure provides, "Every pleading, motion, affidavit, or other paper included in the record on appeal shall show the date on which it was filed and, . . . [e]very judgment, order, or other determination shall show the date on which it was entered." N.C.R. App. P. 9(b)(3). Here, there are documents in the record where the filed dates are either missing or entirely illegible. Critically, there is no filed-stamp on the order itself from which

defendant appeals. *See Kellihan v. Thigpen*, 140 N.C. App. 762, 765, 538 S.E.2d 232, 235 (2000) (noting that a party's "inclusion of pleadings and documents presented in the record on appeal that do not clearly depict the date on which they were filed with the court is in violation of N.C.R. App. P. 9(b)(3) . . . ."); *Bledsoe*, 135 N.C. App. at 125, 519 S.E.2d at 317 (concluding that a party violates Rule 9(b)(3) where "[c]ertain motions, notices, and other papers . . . included as part of the record did not contain filing dates.").

B. Rule 28 Violations

1. Statement of Facts

¶ 4 Rule 28 of the North Carolina Rules of Appellate Procedure requires a party's brief to contain:

> A full and complete statement of the facts. This should be a non-argumentative summary of all material facts underlying the matter in controversy which are necessary to understand all issues presented for review, supported by references to pages in the transcript of proceedings, the record on appeal, or exhibits, as the case may be.

N.C.R. App. P. 28(b)(5). While defendant includes a "Statement of the Facts" section, it contains several allegations and facts peripheral to the matter in controversy. Moreover, this section is devoid of any citation to the record on appeal; there are no references to pages in the transcript, exhibits, or any supporting documents.

2. Citation to Authority

¶ 5 Pursuant to N.C.R. App. P. 28(b)(6), a party's brief must contain:

> An argument, to contain the contentions of the appellant with respect to each issue presented. Issues not presented in a party's brief, or in support of which no reason or argument is stated, will be taken as abandoned.
>
> . . .
>
> The body of the argument and the statement of applicable standard(s) of review shall contain citations of the authorities upon which the appellant relies. Evidence or other proceedings material to the issue may be narrated or quoted in the body of the argument, with appropriate reference to the record on appeal, the transcript of proceedings, or exhibits.

N.C.R. App. P. 28(b)(6).

¶ 6 On appeal, defendant presents five issues. He argues "the trial court's findings of fact and conclusions of law are manifestly insufficient" to support entry of a 50C order. However, other than providing a general rule that the trial court is required to "find the facts specially and state separately its conclusions of law[,]" he does not otherwise cite, analogize, or distinguish relevant authority in support of his argument. N.C. R. Civ. P. 52(a)(1); *see also GRE Props. Thomasville LLC v. Libertywood Nursing Ctr., Inc.*, 235 N.C. App. 266, 276, 761 S.E.2d 676, 682 (2014) ("[D]efendant cites only [one case] for the proposition that issues of relevance are reviewed *de novo* and fails to cite any further legal authority in support of its argument. As a result, we find [the] defendant has abandoned this argument."); *see also K2HN Constr. N.C., LLC v. Five D Contractors, Inc.*, 267 N.C. App. 207, 214 n.6, 832 S.E.2d 559, 565 n.6 (2019) (noting that where a party's "standard of review

section does contain citations to authority pertinent to this argument, . . . those cases merely state a general rule and are not analogized or otherwise analyzed in support of [the party's] position."). Defendant's failure to support specific legal arguments with citation to authority constitutes abandonment of those issues on appeal. *See* N.C.R. App. P. 28(b)(6).

¶ 7 Defendant argues plaintiff violated the terms of a different 50C order, obtained by his wife in a separate and distinct proceeding against plaintiff. However, it is unclear how the facts and allegations pertaining to that order are related to this appeal, or why plaintiff's alleged conduct in that separate action establish a defense to defendant's own conduct in the instant matter. Furthermore, defendant contends the trial court failed to consider and find that he was a protected party under existing civil and criminal orders, and as a result, operated with lawful purpose when contacting police. He cites to no authority in support of his arguments. Accordingly, they are deemed abandoned pursuant to N.C.R. App. P. 28(b)(6).

¶ 8 Defendant argues the trial court failed to find the requisite specific intent to harass plaintiff necessary to support a conclusion of unlawful conduct under the statute. However, defendant provides only a formulaic recitation of N.C. Gen. Stat. § 50(C)-1(6), and another cursory citation to *Ramsey v. Harman* for the general premise that "a finding of harassment alone, even if supported by competent evidence, cannot be the sole basis to sustain entry of a civil no-contact order under

N.C. Gen. Stat. § 50C-1(6)." 191 N.C. App. 146, 149, 661 S.E.2d 924, 926 (2008). We note that "[a]lthough this Court can, after reviewing the record and caselaw, discern some potential lines of argument that *could* have been made in this portion of the brief, those arguments have not been set forth by [defendant.]" *K2HN Constr. N.C., LLC*, 267 N.C. App. at 215, 832 S.E.2d at 565 (emphasis in original). "It is not the role of the appellate courts to create an appeal for an appellant. It is likewise not the duty of the appellate courts to supplement an appellant's brief with legal authority or arguments not contained therein." *Kabasan v. Kabasan*, 257 N.C. App. 436, 443, 810 S.E.2d 691, 697 (2018) (*purgandum*). This argument is deemed abandoned.

¶ 9 Finally, defendant argues the trial court failed to find the statutory requirement of substantial emotional distress. Other than providing a statutory definition of "substantial emotional distress" under N.C. Gen. Stat. § 14-277.3A(b), defendant fails to apply any legal authority to the evidence in support of his argument. We deem this argument abandoned.

II. Conclusion

¶ 10 For the foregoing reasons, we dismiss defendant's appeal for substantial nonjurisdictional violations of our Rules of Appellate Procedure.

DISMISSED.

Judges ZACHARY and MURPHY concur.

Report per Rule 30(e).