An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

2022-NCCOA-234

No. COA 21-489

Filed 5 April 2022

Anson County, No. 20 CVS 89

STEPHANIE MARSHALL, as the Administratrix of the ESTATE OF JA'QUES MCBRYDE, deceased, Plaintiff,

v.

WORTHAM WILLIAMS & SON, INC., RICHARD E. WILLIAMS, LYDIA WILLIAMS, MR. D'S BAR AND GRILL, INC., MR. D'S GRILL, INC., DONNELL LINDSAY, and RETHA LINDSAY, Defendants.

Appeal by Plaintiff from order signed 28 January 2021 by Judge Mark E. Klass in Anson County Superior Court. Heard in the Court of Appeals 22 March 2022.

Law Office of Michael D. Maurer, P.A., by Michael D. Maurer and Naomi L. Ellis, for Plaintiff-Appellant.

Pinto Coates Kyre & Bowers, PLLC, by Andrew G. Pinto and Deborah J. Bowers, for Defendants-Appellees.

INMAN, Judge.

¶ 1 Plaintiff Stephanie Marshall ("Plaintiff") brought a wrongful death action on behalf of the estate of Ja'Ques McBryde, alleging that the decedent was killed in a shooting on a property owned by Defendants Wortham Williams & Son, Inc., Richard E. Williams, and Lydia Williams (the "Landlord Defendants") and leased to

Defendant Donnell Lindsay, who operated a restaurant on the property with his wife, Defendant Retha Lindsay.

¶ 2 The Landlord Defendants filed an answer and moved to dismiss the complaint under Rule 12(b)(6) of the North Carolina Rules of Civil Procedure. Plaintiff appeals to this Court, asserting that the trial court erred in allowing that motion. However, it does not appear from the record on appeal that an order was entered. The order included in the record is signed by the trial court but not file stamped by the clerk of court. The statement of organization of the trial court, required under Rule 9(a)(1)b of our Rules of Appellate Procedure, does not indicate a date that the order was filed with the clerk of court or that the order was filed at all.

¶ 3 "[A] judgment is entered when it is reduced to writing, signed by the judge, and *filed with the clerk of court.*" N.C. Gen. Stat. § 1A-1, Rule 58 (2021) (emphasis added). The same procedural rule applies to orders: an order is entered "when it is reduced to writing, signed by the judge, and filed with the clerk of court." *Watson v. Price*, 211 N.C. App. 369, 370, 712 S.E.2d 154, 155 (2011). "[T]he mere signature on a judgment that has not been entered is an incomplete judgment." *Webb v. Nash Hospitals, Inc.*, 133 N.C. App. 636, 639, 516 S.E.2d 191, 193 (1999).

¶ 4 Without entry of an order by the trial court, we do not have subject matter jurisdiction to hear this appeal. "Entry of judgment by the trial court is the event which vests jurisdiction in this Court . . . [s]ince entry of judgment is jurisdictional,

this Court has no authority to hear an appeal where there has been no entry of judgment." *In re Estate of Walker*, 113 N.C. App. 419, 420-21, 438 S.E.2d 426, 427 (1994). Our review is solely based upon the record on appeal and other documents filed in accordance with the Rules of Appellate Procedure. N.C. R. App. P. 9(a) (2021). "If [the record] fails to disclose the necessary jurisdictional facts we have no authority to do more than dismiss the appeal." *Mason v. Moore County Bd. of Com'rs,* 229 N.C. 626, 629, 51 S.E.2d 6, 8 (1948).

¶ 5 As the record in this case does not indicate that the order appealed from was filed with the clerk of court, we do not have subject matter jurisdiction and must dismiss Plaintiff's appeal.

DISMISSED.

Judges MURPHY and GRIFFIN concur.

Report per Rule 30(e).