

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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-304

No. COA21-95

Filed 3 May 2022

Forsyth County, No. 20 CvS 2255

CRAIGE JENKINS LIIPFERT & WALKER, LLP, and BRYAN C. THOMPSON,
acting as Personal Representative of the ESTATE OF CLEESTER C. HICKERSON,
Plaintiffs,

v.

CARMELENE LYNNE WOODS, Defendant.

Appeal by Defendant from order entered 24 September 2020 by Judge Eric C.
Morgan in Forsyth County Superior Court. Heard in the Court of Appeals 26 January
2022.

Craig Jenkins Liipfert & Walker LLP, by Lori B. Edwards, for the Plaintiff-Appellee.

Carmelen L. Woods, Pro Se.

DILLON, Judge.

¶ 1 Defendant brings this appeal of an interlocutory order dismissing her counterclaims. The issue before us is whether the dismissal affects a substantial right. We conclude that it does not. Accordingly, we dismiss Defendant's appeal.

I. Background

¶ 2 Plaintiffs, who are personal representatives for the estate of Cleester Hickerson, obtained a judgment against Defendant in a previous case. Defendant never appealed that decision. Plaintiffs then commenced this case by filing a “Complaint for Money Owed,” to collect on the previous judgment.

¶ 3 Defendant filed her answer, which included four counterclaims. A hearing was held on various motions. After the hearing, the trial court granted Plaintiffs’ motion to dismiss Defendant’s counterclaims. Defendant brings this appeal of that decision.

II. Analysis

¶ 4 The trial court’s order from which Defendant appeals is interlocutory, as Plaintiffs’ claim against Defendant has yet to be resolved. *See Bailey v. Gooding*, 301 N.C. 205, 209, 270 S.E.2d 431, 433 (1980) (“A final judgment is one which disposes of the cause as to all the parties, leaving nothing to be judicially determined between them in the trial court[.]”).

¶ 5 “While final judgments are always appealable, interlocutory decrees are immediately appealable only when they affect some substantial right of the appellant and will work an injury to him if not corrected before an appeal from final judgment.” *Id.* at 209, 270 S.E.2d at 433; *see* N.C. Gen. Stat. § 7A-27(b)(3) (2020).

¶ 6 As the appellant, Defendant has the burden of explaining in her brief the grounds for our appellate jurisdiction. N.C. R. App. P. Rule 28(b)(4) (“When an appeal is interlocutory, the statement [of the grounds for appellate review] must contain

sufficient facts and argument to support appellate review on the ground that the challenged order affects a substantial right.”). Defendant, however, failed to make any argument in her opening brief explaining how the trial court’s order affects a substantial right, failing even to recognize that the order is interlocutory. We, therefore, dismiss her appeal for lack of appellate jurisdiction.

¶ 7 Assuming *arguendo* that Defendant did make a proper jurisdictional argument, we fail to see how the dismissal of Defendant’s counterclaims affects a substantial right. A substantial right may arise from the dismissal of some claims to avoid having to litigate the same legal issues in a later trial. “It is usually necessary to resolve the [substantial right] question in each case by considering the particular facts of that case and the procedural context in which the order from which appeal was sought is entered.” *Green v. Duke Power Co.*, 305 N.C. 603, 606, 290 S.E.2d 593, 595 (1982).

¶ 8 Defendant’s counterclaims that were dismissed are summarized below:

Counterclaim 1: Plaintiffs committed Fraud on the Court, as well as obtaining money by false pretenses, by filing their compliant for money owed alleging the Assignment by Mrs. Hickerson, when she was documented as suffering from dementia and diminished mental capacity.

Counterclaim 2: Plaintiffs interfered with her Bankruptcy Filing (File # 52-081) that was heard in The Bankruptcy Court for the Middle District of North Carolina.

Counterclaim 3: Plaintiffs committed fraud on the court

and conspired with a court administrator to provide the trial judge (in the first case) with misleading information regarding the legitimacy of her doctor in California, who was supposedly treating her when she was absent from a sanctions hearing.

Counterclaim 4: Plaintiffs interfered with her ability to maintain counsel by threatening to have her attorney's law license revoked, leading to a withdraw of her pleading.

¶ 9 The allegations in Counterclaims 1, 3, and 4 fit squarely within the *first* case that determined liability and which was not appealed; they do not involve the present claim by Plaintiffs to collect on that judgment. And Counterclaim 2 concerns a bankruptcy matter, with legal issues that differ from those raised by Plaintiffs' claim in this matter.

III. Conclusion

¶ 10 Defendant has failed to meet her burden of explaining in her opening brief the basis for our appellate jurisdiction to consider the interlocutory order dismissing her counterclaims.

DISMISSED.

Judges ZACHARY and MURPHY concur.

Report per Rule 30(e).