An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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-402

No. COA21-347

Filed 7 June 2022

Wake County, No. 18CVD3965

WAKE COUNTY on behalf of KELLY M. WILLIAMS, Plaintiff,

v.

ANDRELLE WILEY, Defendant.

Appeal by Defendant from order entered 12 November 2020 by Judge Jefferson Griffin in Wake County District Court. Heard in the Court of Appeals 22 February 2022.

Wake County Child Support Enforcement, by Assistant County Attorney Lucy Chavis, for Plaintiff-Appellee.

Andrelle Wiley, pro se.

INMAN, Judge.

¶ 1 Defendant-Appellant Andrelle Wiley ("Ms. Wiley"), *pro se*, appeals from an order dismissing her Rule 60 motion to set aside a child support enforcement order and declining to reach her Rule 12 motions, alleging improper service of a notice of registration of a foreign support order upon her in North Carolina. After careful review, we affirm the order of the trial court.

I. FACTUAL & PROCEDURAL BACKGROUND

¶ 2 Ms. Wiley was ordered to pay child support to Kelly M. Williams ("Ms. Williams") in Prince George's County, Maryland in 2007. In 2017, the Office of Child Support in Prince George's County requested a transfer of the child support order to Wake County for enforcement. At the time of the transfer request Ms. Wiley owed over $42,000 in child support.

¶ 3 On behalf of Ms. Williams, Wake County Child Support Enforcement Agency ("Wake County") filed a "Notice of Registration of Foreign Support Order" in Wake County District Court on 2 April 2018 to register and enforce child support against Ms. Wiley in North Carolina. The trial court then entered a confirmation order accepting registration of the Maryland child support order in this State and default judgment in June 2018.

¶ 4 In March 2019, Ms. Wiley filed a motion to set aside the order confirming registration of the foreign support order and for default judgment and filed another motion clarifying her relief sought two months later. The trial court dismissed Ms. Wiley's motions without prejudice for failure to appear at the noticed hearing. As of June 2019, Ms. Wiley was over $50,000 in arrears.

¶ 5 In October of the same year, Ms. Wiley filed a motion to dismiss the order confirming registration of the foreign support order pursuant to Rules 12(b)(2), 12(b)(4), and 12(b)(5) of the Federal Rules of Civil Procedure. In February 2020, she

filed an amended motion to dismiss pursuant to Rule 12 of the North Carolina Rules of Civil Procedure, or, in the alternative, a motion to set aside the order and vacate default judgment pursuant to Rule 60. The trial court heard the motions in November 2020 and denied the Rule 60 motion to set aside without reaching the Rule 12 motions to dismiss. Ms. Wiley appealed.

II. ANALYSIS

A. Motion for Judicial Notice

¶ 6 On appeal, Ms. Wiley requests we take judicial notice, under Rule 201 of our Rules of Evidence, of several documents, which she contends "bear a direct connection to the issue(s) on appeal regarding total want of jurisdiction." She submits: (1) an advisory opinion issued by the North Carolina Attorney General's Office in 1994 titled "Service of Notice for Registration for Foreign Support Order;" (2) two individual income tax adjustment forms from the North Carolina Department of Revenue from tax years 2018 and 2019, addressed to her P.O. Box; and (3) a debtor's notice from the North Carolina Department of Health and Human Services/Division of Social Services Child Support Enforcement Section in 2019 also addressed to her P.O. Box. Ms. Wiley failed to submit any of these documents before the trial court. We decline to take judicial notice of any of them.

¶ 7 Rule 201 requires this Court to take judicial notice of adjudicative facts "if requested by a party and supplied with the necessary information." N.C. Gen. Stat.

§ 8C-1, Rule 201(d) (2021). "A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." *Id.*, Rule 201(b).

¶ 8 The debtor's notice and income tax adjustment forms are not the type of adjudicative facts "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."[1] *Id.* In addition, the Attorney General's advisory opinion was readily available to the trial court and the opinion was issued in response to a particular question analyzing statutes that have since been repealed and replaced by the Uniform Interstate Family Support Act. *See* H.B. 168, S.L. 1995-538, Title VI, § 7(a) ("Effective January 1, 1996, Chapter 52A of the General Statutes is repealed."). Further, evidence to confirm Ms. Wiley's P.O. Box address does not rebut the presumption that service was proper at her physical address as confirmed by the United States Postal Service ("U.S.P.S."). We therefore deny Ms. Wiley's motion.

B. Discussion

¶ 9 Ms. Wiley argues service of the notice of registration of the foreign support

[1] The Advisory Committee's Note to Rule 201(b) further describes the practice of taking judicial notice of adjudicative facts as "one of caution in requiring that the matter be beyond reasonable controversy." N.C. Comment., Editors' Notes, Subdivision(b).

order was improper because: (1) she did not reside at the physical address where the pleadings were mailed; and (2) she is not the person named on the registration packet because her first name was misspelled.

¶ 10 We review a trial court's denial of a Rule 60 motion for abuse of discretion. *Davis v. Davis*, 360 N.C. 518, 523, 631 S.E.2d 114, 118 (2006).

¶ 11 Rule 5 of our Rules of Civil Procedure provides service of "orders, subsequent pleadings, discovery papers, written motions, written notices, and other similar papers" may be made upon a party:

> [b]y *mailing a copy to the party at the party's last known address* or, if no address is known, by filing it with the clerk of court . . . . Service by mail shall be complete upon deposit of the pleading or paper enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service.

N.C. Gen. Stat. § 1A-1, Rule 5(b)(2) (2021) (emphasis added). Wake County complied with Rule 5. In accordance with the rule, Wake County requested Ms. Wiley's last known street address from U.S.P.S. and sent the registration packet and pleadings by mail to that address. At the hearing, Ms. Wiley provided no evidence she had lived at a different physical address than the one on the notice and would not provide her purported current physical address to the trial court when asked. In its order, the trial court concluded Ms. Wiley "provided insufficient evidence to show improper service on the notice of registration."

¶ 12 Ms. Wiley further contends she was not properly served because the original enforcement order omitted a letter at the end of Ms. Wiley's first name, "Darnell" instead of "Darnelle." On this point, the trial court concluded Ms. Wiley had not demonstrated she was "not the person named in said registration." We agree the misspelling of her first name is a clerical error and is not evidence of service upon the wrong individual. *See Storey v. Hailey*, 114 N.C. App. 173, 178, 441 S.E.2d 602, 605 (1994) ("If the misnomer or misdescription does not leave in doubt the identity of the party intended to be sued, or even where there is room for doubt as to identity, if service of process is made on the party intended to be sued, the misnomer or misdescription may be corrected by amendment at any stage of the suit.") (cleaned up)). Ms. Wiley has neither demonstrated improper service nor shown the trial court abused its discretion in denying her motion to set aside the support order. *See Davis*, 360 N.C. at 523, 631 S.E.2d at 118.

¶ 13 Ms. Wiley asserts a separate, vague challenge to the registration of the child support order but does not articulate a legal argument or cite authority supporting her view. To the extent Ms. Wiley purports to dispute whether the child support order was properly registered in North Carolina, the record reveals the contents of the registration packet itself met the requirements of the Uniform Interstate Family Support Act, N.C. Gen. Stat. §§ 52C-6-601, 602, 605, 608 (2021), and, as discussed above, Wake County served Ms. Wiley a copy of the registration packet at the mailing

address provided by U.S.P.S. Ms. Wiley did not contest the registration within twenty days, § 52C-6-605(b)(2)-(4), so the trial court entered an order confirming registration of the child support order in North Carolina for enforcement pursuant to the Act. §§ 52C-6-606(b), 608.

III. CONCLUSION

¶ 14 For the foregoing reasons, we deny Ms. Wiley's motion to take judicial notice and affirm the order of the trial court.

AFFIRMED.

Judges TYSON and ZACHARY concur.

Report per Rule 30(e).