

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

No. COA23-102

Filed 19 September 2023

Haywood County, No. 21CRS488

STATE OF NORTH CAROLINA

v.

ELEANOR BLACK

Appeal by Defendant from Judgment entered 29 August 2022 by Judge Daniel A. Kuehnert in Haywood County Superior Court. Heard in the Court of Appeals 29 August 2023.

Attorney General Joshua H. Stein, by Special Deputy Attorney General Kathryn H. Shields, for the State.

Richard Croutharmel for Defendant-Appellant.

PER CURIAM.

Eleanor Black (Defendant) appeals from Judgment entered 29 August 2022 adjudicating her guilty of direct criminal contempt. Defendant was sentenced to two days of imprisonment and ordered to pay court costs and a fine of \$50.00. Defendant filed written Notice of Appeal on 15 June 2022—twenty days after the entry of Judgment.

A defendant seeking to appeal a judgment “in a criminal action may take appeal by: (1) giving oral notice of appeal at trial, or (2) filing notice of appeal . . . within fourteen days after entry of the judgment or order[.]” N.C.R. App. P. 4(a) (2023). This Court lacks the jurisdiction to hear a defendant’s appeal when the defendant has failed to timely file notice of appeal. *State v. McCoy*, 171 N.C. App. 636, 638, 615 S.E.2d 319, 320 (2005) (citations omitted). Here, Defendant failed to timely file Notice of Appeal. Further, Defendant’s Notice of Appeal does not contain a certificate of service showing it was served on the State as required by Rule 4 of the North Carolina Rules of Appellate Procedure. As such, this Court is without jurisdiction to review her appeal.

Recognizing her written Notice of Appeal was untimely filed, Defendant filed a Petition for Writ of Certiorari requesting this Court review the merits of her appeal pursuant to N.C.R. App. P. 21. In her Petition, Defendant summarily contends the trial court erred in adjudicating her guilty of direct criminal contempt because “the evidence showed she did not willfully or intentionally interrupt, disrespect, or interfere with the process of the . . . hearing but was instead merely trying to communicate with her counsel during that hearing.” Having reviewed both Defendant’s Petition and her arguments contained in briefing, we further conclude Defendant has failed to demonstrate sufficient merit in her appeal to warrant the issuance of the writ of certiorari. See *State v. Grundler*, 251 N.C. 177, 189, 111 S.E.2d

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1, 9 (1959) (“A petition for writ must show merit or that error was probably committed below.”). Accordingly, we deny her Petition and dismiss this appeal.

DISMISSED.

Panel consisting of:

Judges ZACHARY, HAMPSON, and FLOOD.

Report per Rule 30(e).