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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA 22-977

Filed 5 March 2024

Wake County, No. 19-CVD-15723

STETSON MANSFIELD WEBSTER, Plaintiff,

v.

DANA DANIELLE DEVANE-WEBSTER, Defendant.

Appeals by plaintiff from a series of orders by Judges David Baker, Julie Bell, and Damion McCullers in Wake County District Court. Heard in the Court of Appeals on 6 September 2023.

*Stetson Mansfield Webster, pro se, for the plaintiff-appellant.*

*No brief filed for defendant-appellee.*

STADING, Judge.

This appeal is one of three before this Court arising from the same underlying matter. *See Webster v. Devane-Webster*, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_, No. COA22-975 (5 March 2024) (unpublished); *Webster v. Devane-Webster*, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_, No. COA22-976 (5 March 2024) (unpublished). In this case, Stetson Mansfield Webster (“plaintiff”) appeals from the trial court’s 2 August 2022 order for equitable distribution.

As to plaintiff's issues presented for appellate review, he asserts the following: (1) the trial court erred in not permitting plaintiff leave to amend the equitable distribution inventory affidavit; (2) the trial court erred in admitting the post-nuptial agreement into evidence; (3) the trial court erred in the findings of fact; (4) the trial court erred in awarding the mortgage debt to Dana Devane-Webster ("defendant"); (5) the trial court erred in consideration and distribution of IRS debts; and (6) the trial court erred in the calculation of the distributive amount. After careful review, we affirm.

### **I. Background**

Plaintiff's third case arises from the trial court's equitable distribution order dated 2 August 2022. In that order, the trial court made written findings of fact supporting the division of marital property. Plaintiff appealed the order, asserting six disputes with the equitable distribution. First, plaintiff asserts that the trial court should have granted him leave to amend his equitable distribution inventory affidavit. Second, plaintiff says that the trial court erred in admitting a post-nuptial agreement. Third, plaintiff disputes certain findings of fact by the trial court and contends that they are not supported by competent evidence. Fourth, plaintiff asserts that the trial court erred in awarding mortgage debt to defendant with "the wrong valuation." Fifth, plaintiff maintains that the trial court erred in its consideration of IRS debts. And sixth, plaintiff argues that the trial court erred in determining the distributive amount.

## **II. Jurisdiction**

This Court has jurisdiction over the trial court’s equitable distribution order since it is a final judgment in a civil action under N.C. Gen. Stat. § 7A-27(c) (2023). *Mugno v. Mugno*, 205 N.C. App. 273, 276, 695 S.E.2d 495, 498 (2010).

## **III. Analysis**

When reviewing an equitable distribution order on appeal, this Court will uphold the trial court’s written findings of fact “as long as they are supported by competent evidence.” *Gum v. Gum*, 107 N.C. App. 734, 738, 421 S.E.2d 788, 791 (1992). “The division of property in an equitable distribution is a matter within the sound discretion of the trial court.” *Cunningham v. Cunningham*, 171 N.C. App. 550, 555, 615 S.E.2d 675, 680 (2005) (quotation marks and citation omitted). The trial court’s conclusions of law are reviewed *de novo*. *Lee v. Lee*, 167 N.C. App. 250, 253, 605 S.E.2d 222, 224 (2004). Moreover, this Court reviews the trial court’s actual distribution decision for abuse of discretion. *White v. White*, 312 N.C. 770, 777, 324 S.E.2d 829, 833 (1985).

Under the North Carolina Equitable Distribution Act, the trial court must determine whether property is marital or divisible and “provide for an equitable distribution of the marital property and divisible property between the parties[.]” N.C. Gen. Stat. § 50-20 (2023). In accordance with the Act, the trial court must follow a three-step analysis: (1) identify the property as either marital, divisible, or separate

property after conducting appropriate findings of fact; (2) determine the net value of the marital property as of the date of the separation; and (3) equitably distribute the marital and divisible property. *See Little v. Little*, 74 N.C. App. 12, 16–20, 327 S.E.2d 283, 287–89 (1985). As for the distribution phase, there is generally a presumption of equal distribution. N.C. Gen. Stat. § 50-20(c). But a trial court may conclude, within its discretion, that unequal distribution is equitable after considering the factors listed in N.C. Gen. Stat. § 50-20(c) and making sufficient findings of fact to support its conclusion. *See id.*

After a careful review of the record, we hold that the trial court complied with the statutory requirements of N.C. Gen. Stat. § 50-20(c) by citing to competent evidence and making the requisite findings that equal distribution is equitable. We see no reason to disturb the trial court’s findings. *See, e.g., Upchurch v. Upchurch*, 128 N.C. App. 461, 495 S.E.2d 738 (1998); *Becker v. Becker*, 127 N.C. App. 409, 489 S.E.2d 909 (1997); *Jones v. Jones*, 121 N.C. App. 523, 466 S.E.2d 342 (1996). As such, we conclude that the court did not abuse its discretion by ordering an equal distribution and affirm the trial court’s order.

Notwithstanding our analysis above, as noted in *Webster v. Devane-Webster*, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_, No. COA22-975 (5 March 2024) (unpublished); *Webster v. Devane-Webster*, \_\_\_ N.C. App. \_\_\_, \_\_\_ S.E.2d \_\_\_, No. COA22-976 (5 March 2024) (unpublished), plaintiff’s brief violates several rules of appellate procedure and does not adhere to their standards. “[T]he Rules of Appellate

Procedure[ ] are mandatory and [the] failure to follow these rules will subject an appeal to dismissal.” *Steingress v. Steingress*, 350 N.C. 64, 65, 511 S.E.2d 298, 299 (1999) (citations omitted). In *Dogwood Dev. & Mgmt. Co., v. White Oak Transp. Co.*, the 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 if those violations are “gross” or “substantial.” *Id.* at 198-99, 657 S.E.2d at 365-66. This Court has recognized that these rules apply when the appellant is self-represented or represented by counsel. *See Bledsoe v. Cnty. of Wilkes*, 135 N.C. App. 124, 125, 519 S.E.2d 316, 317 (1999). “[R]ules of procedure are necessary in order to enable the courts properly to discharge their duty of resolving disputes.” *Dogwood Dev. & Mgmt. Co.*, 362 N.C. at 193, 657 S.E.2d at 362 (citation, quotation marks, brackets, and ellipses omitted). Yet “rules of practice and procedure are devised to promote the ends of justice, not to defeat them.” *Id.* at 194, 657 S.E.2d at 363 (citations, quotation marks, and brackets omitted).

A “principal category of default involves a party’s failure to comply with one or more of the nonjurisdictional requisites prescribed by the appellate rules” and “[n]oncompliance with rules of this nature . . . does not ordinarily give rise to the

harms associated with review of unpreserved issues or lack of jurisdiction.” *Id.* at 198, 657 S.E.2d at 365.

[W]hen a party fails to comply with one or more nonjurisdictional appellate rules, the court should first determine whether the noncompliance is substantial or gross under Rules 25 and 34. If it so concludes, it should then determine which, if any, sanction under Rule 34(b) should be imposed. Finally, if the court concludes that dismissal is the appropriate sanction, it may then consider whether the circumstances of the case justify invoking Rule 2 to reach the merits of the appeal.

*Id.* at 201, 657 S.E.2d at 367. Appellate Rule 25(b) states the following:

A court of the appellate division may, on its own initiative or motion of a party, impose a sanction against a party or attorney or both when the court determines that such party or attorney or both substantially failed to comply with these rules, including failure to pay any filing or printing fees or costs when due. The court may impose sanctions of the type and in the manner prescribed by Rule 34 for frivolous appeals.

N.C. R. App. P. 25(b) (2017).

Here, we face several nonjurisdictional defects that impair the court’s task of review and frustrate the adversarial process. 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) (2022).

While plaintiff includes a “Statement of the Facts” section, it contains several allegations and facts peripheral to each matter in controversy. More poignant to the analysis, per Rule 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) (2022).

Plaintiff presented several issues, including that the trial court’s findings of fact and conclusions of law are not factually supported. Still, he does not otherwise cite, analogize, or distinguish relevant authority in support of his arguments. N.C. R. Civ. P. 52(a)(1) (2023); *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 (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.”).

While plaintiff occasionally provided cursory citations, sometimes referencing incorrect documents in the record, plaintiff failed to otherwise cite, analogize or distinguish relevant authority to support his many claims. As such, his briefing is merely an amalgamation of conclusory statements that do not apply legal authority. *See Lopp v. Anderson*, 251 N.C. App. 161, 167, 795 S.E.2d 770, 775 (2016) (concluding plaintiff abandoned the issues raised in his appeal where his argument consisted of declaratory statements unsupported by any citation to authority and made only a passing reference to a statute). *See also State v. Summers*, 177 N.C. App. 691, 699, 629 S.E.2d 902, 908 (2006) (declining to address one of the appellant's arguments when he failed to include a statement of the applicable standard of review). Failure to state legal authority or basis for an issue on appeal constitutes a “gross violation” of the *North Carolina Rules of Appellate Procedure*. *See Dogwood Dev. Mgmt. Co.*, 192 N.C. App. at 120, 665 S.E.2d at 498; *State v. Sinnott*, 163 N.C. App. 268, 273, 593 S.E.2d 439, 442–443 (2004); *In re Will of Harts*, 191 N.C. App. 807, 811, 664 S.E.2d 411, 414 (2008). Failure to cite supporting legal authority impairs this Court's ability to review the merits of the appeal. *Hannah v. Nationwide Mut. Fire Ins.*, 190 N.C. App. 626, 632, 660 S.E.2d 600, 604 (2008) (“As a result of [the] failure to cite any authority . . . we have not considered the merits . . . because that violation of the rules impaired our ability to review the merits of the appeal.”).



Having accounted for what is available to this Court for consideration, we hold any remaining arguments abandoned considering that “it is not the role of this Court to create an appeal for an appellant or to supplement an appellant’s brief with legal authority or arguments not contained therein.” *Thompson v. Bass*, 261 N.C. App. 285, 292, 819 S.E.2d 621, 627 (2018) (citations omitted); *Kabasan v. Kabasan*, 257 N.C. App. 436, 443, 810 S.E.2d 691, 697 (2018).

#### **IV. Conclusion**

For the foregoing reasons, we discern no error and affirm the trial court’s holding.

AFFIRMED.

Judges Wood and Griffin concur.

Report per Rule 30(e).