

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA23-860

Filed 4 June 2024

Harnett County, No. 19CVD2621

AMY LEIGH ROBBINS, Plaintiff

v.

CHRISTOPHER NICHOLAS ROBBINS, Defendant

Appeal by defendant from judgment entered 9 January 2024 by Judge Mary H. Wells in Harnett County District Court. Heard in the Court of Appeals 16 April 2024.

Bull City Legal Services, by Lynne M. Kay, for the plaintiff-appellant.

Christopher Nicholas Robbins, pro se.

TYSON, Judge.

Amy Leigh Robbins (“Plaintiff” or “Mother”) purports to appeal from final judgment, entered 27 August 2021, ordering Christopher Nicholas Robbins (“Defendant” or “Father”) to pay the remaining balance owed after several months of partial child support payments and reducing his obligations thereafter. We dismiss Mother’s appeal.

I. Background

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Mother and Father married on 2 December 2005 and separated on 30 September 2017. The parties are parents of two children: M.A.R., born 6 July 2007, and LL.S.R., born 14 April 2011. *See* N.C. R. App. P. 42(b) (pseudonyms used to protect the identity of minors). The parties entered into a Separation Agreement (“Agreement”) on 2 October 2017. This Agreement was never incorporated into an order of the trial court.

The Separation Agreement outlined Father’s obligation to pay Mother \$3,102.80 per month for child support beginning in October 2017. When the Agreement was executed, Father’s monthly income was \$5,702.80 and consisted of \$4,480.80 from his Veterans Affairs (“VA”) disability, and \$1,222.00 from his Social Security disability. These amounts were deposited directly into the parties’ joint bank account. Under the terms of the Agreement, Mother was to withdraw from the joint bank account \$2,480.80 of Father’s VA disability payment, and \$600 of his Social Security payment at the beginning of the month.

The trial court found Mother to be a healthy, able-bodied individual, who is capable of earning an income, but is currently unemployed and is the primary caretaker of the two children. Mother lives with her current boyfriend, who is an unemployed student. At the time the Agreement was executed, Father was prescribed and regularly taking narcotics for pain, and he continues to require such medication for his various diagnoses and disabilities.

Following the execution of the Agreement, Father moved into a camper, where

he remained until moving into an older home in late April 2019. The trial court found and concluded Father “has expended monies, largely through credit card expenditures, to repair and maintain” this older home. Mother’s current home, which is the former marital home, is paid for in full. She has no rent or mortgage expenses.

Father sent a text message to Mother stating he would no longer be making child support payments in accordance with the Agreement on 20 November 2019. For over the past two years and up until this point, Father had routinely complied with the Agreement and made all necessary child support payments. After sending this message to Mother, Father subsequently closed the parties’ joint baking account used for transferring such payments.

Mother filed a Complaint for specific performance of the Agreement on 22 November 2019. Father filed an Amended Answer and Counterclaims, wherein he requested for child support to be calculated by the trial court in accordance with the North Carolina Child Support Guidelines. Father did not file a claim for rescission of the separation agreement or include any affirmative defenses.

At the time of the hearing for specific performance, Father’s monthly income had increased to \$5,902.87, and his reasonable monthly expenses were \$3,150.00. The trial court concluded Father “lacks the ability to fulfill his support obligations” outlined in the Separation Agreement. Considering Father’s monthly income, expenses, and his financial circumstances, the trial court: ordered partial specific performance of the Agreement; reduced the amount of child support Father owed

Mother; assessed arrearage against Father for the remaining balance owed after several prior partial payments; granted Mother a judgment against Father for the balance owed for additional months of partial payments; and reduced Father's monthly child support payments to Mother going forward. The trial court's Order for Specific Performance and Child Support was entered on 27 August 2021. Neither party appealed.

Mother and Father entered into a Consent Order for Child Custody on 24 January 2023. Mother filed a purported and untimely notice of appeal "from the final Order for Specific Performance and Child Support of the Honorable Mary H. Wells entered on August 27, 2021" on 2 February 2023.

II. Jurisdiction

In a civil action, parties must file a notice of appeal "within thirty days after entry of judgment if the party has been served with a copy of the judgment within the three-day period prescribed by Rule 58 of the Rules of Civil Procedure[.]" N.C. R. App. P. 3(c)(1).

"Compliance with the requirements for entry of notice of appeal is jurisdictional." *State v. Oates*, 366 N.C. 264, 266, 732 S.E.2d 571, 573 (2012) (citing *Dogwood Dev. & Mgmt. Co. v. White Oak Transp. Co.*, 362 N.C. 191, 197-98, 657 S.E.2d 361, 365 (2008)). Our Supreme Court held an appellant's failure to follow the requirements of Rule 3 "mandates dismissal of an appeal." *Bailey v. State*, 353 N.C. 142, 156, 540 S.E.2d 313, 322 (2000) (citation omitted).

Our state’s appellate courts “obtain[] jurisdiction only over the rulings specifically designated in the notice of appeal as the ones from which the appeal is being taken.” *Sellers v. Ochs*, 180 N.C. App. 332, 334, 638 S.E.2d 1, 3 (2006) (citations and internal quotation marks omitted).

Here, Mother argues the trial court erred by: (1) reducing Father’s overall child support payment obligations from the amount initially established by the Separation Agreement; (2) ordering Father to only partially perform his obligations outlined in the Separation Agreement; (3) finding these modifications and order to be in the best interest of the minor children; and (4) failing to find Father had breached his contractual duties outlined by the Separation Agreement. Each of these arguments concerns the trial court’s 27 August 2021 Order for Specific Performance and Child Support, which was entered more than fifteen months prior to Mother’s notice of appeal.

Mother attempts to bootstrap her claims regarding the trial court’s 27 August 2021 order to her appeal following the entry of the Consent Order for Child Custody on 24 January 2023. None of Mother’s claims on appeal concern the Consent Order for Child Custody. Mother has failed to comply with the requirements of Rule 3 of the North Carolien Rules of Appellate Procedure. N.C. R. App. P. 3(c)(1). Mother’s appeal is dismissed. *Oates*, 366 N.C. at 266, 732 S.E.2d at 573; *Bailey*, 353 N.C. at 156, 540 S.E.2d at 322; *Sellers*, 180 N.C. App. at 334, 638 S.E.2d at 3.

III. Conclusion

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“Compliance with the requirements for entry of notice of appeal is jurisdictional.” *Oates*, 366 N.C. at 266, 732 S.E.2d at 573 (citation omitted). Mother’s appeal is dismissed for failure to comply with Rule 3(c)(1) of the North Carolina Rules of Appellate Procedure. *Id.*; N.C. R. App. P. 3(c)(1); *Bailey*, 353 N.C. at 156, 540 S.E.2d at 322; *Sellers*, 180 N.C. App. at 334, 638 S.E.2d at 3. *It is so ordered.*

DISMISSED.

Chief Judge DILLON and Judge GRIFFIN concur.

Report per Rule 30(e).