

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA24-134

Filed 3 December 2024

Davidson County, No. 17CVD1090

JULIAN HERBERT SURRATT, Plaintiff,

v.

ANZHELIKA SURRATT, Defendant.

Appeal by defendant from order entered 2 December 2022 by Judge Rosalind Baker in Davidson County District Court. Heard in the Court of Appeals 13 August 2024.

*No brief filed for plaintiff-appellee.*

*Anzhelika Surratt, pro se, for defendant-appellant.*

PER CURIAM.

Defendant appeals from an order entered 2 December 2022 granting plaintiff's motion to modify child custody, denying defendant's motions to modify child custody, vacating a show cause order, and denying defendant's motion for contempt. We dismiss this appeal for substantial noncompliance with our appellate rules.

Here, defendant's "[f]ailure to include the certificate of service for a notice of

appeal in the record is a violation of Rule 3 and Rule 26 of the North Carolina Rules of Appellate Procedure.” *Ribble v. Ribble*, 180 N.C. App. 341, 342 (2006); *see also* N.C.R. App. P. 3(c), (e), 26(b). While a technical error in service may be “non-jurisdictional and is not a substantial or gross violation of the appellate rules[,]” dismissal may be warranted if such an error “materially impede[s] the adversarial process or impair[s] our ability to examine the merits of this appeal.” *MNC Holdings, LLC v. Town of Matthews*, 223 N.C. App. 442, 447 (2012). We can find no indication plaintiff was ever notified of this appeal. Plaintiff in this case has not waived failure of service and “has not filed a brief or any other document with this Court or otherwise participated in this appeal.” *Ribble*, 180 N.C. App. at 343.

Moreover, the Record on Appeal substantially fails to comply with Rule 9 as to the composition of the Record on Appeal and defendant’s “brief violates [Appellate] Rule 28(b)(6) to such an extent that we deem each argument presented to be abandoned.” *K2HN Constr. N.C., LLC v. Five D Contractors, Inc.*, 267 N.C. App. 207, 213 (2019). Defendant’s “failure to present appropriate argument supported with citations to authority and the record consistent with Rule 28(b)(6) constitutes a default precluding substantive review.” *Id.* at 215 (cleaned up); *see also Dogwood Dev. & Mgmt. Co., LLC v. White Oak Transp. Co.*, 362 N.C. 191, 200 (2008).

DISMISSED.

Before a panel consisting of Chief Judge DILLON and Judges STROUD and

SURRATT V. SURRATT

*Opinion of the Court*

GORE.

Report per Rule 30(e).