

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA24-545

Filed 19 February 2025

Pender County, No. 20 CVS 752

DONALD SULLIVAN, Plaintiff,

v.

PENDER COUNTY, Defendant.

Appeal by plaintiff from orders entered 28 March 2024 and 9 May 2024 by Judge George F. Jones in Pender County Superior Court. Heard in the Court of Appeals 29 January 2025.

*Lt. Col. Donald Sullivan, pro se, plaintiff-appellant.*

*Carl W. Thurman, III for defendant-appellee.*

PER CURIAM.

Plaintiff Donald Sullivan appeals from an order allowing Pender County's Motion for Summary Judgment and from an order denying his Rule 60 Motion. We affirm.

I. Background

SULLIVAN V. PENDER CNTY.

*Opinion of the Court*

Plaintiff owns real property in Pender County. He has sued Pender County twice—once in 2018 and again in 2020—seeking a refund of his property taxes. Our decision of his appeal from his 2018 case is reported at *Pender Cnty. v. Sullivan*, 265 N.C. App. 111 (2019) (unpublished). This present appeal concerns his 2020 case.

In December 2023, Defendant moved to dismiss and for summary judgment. On 28 March 2024, after a hearing on the matter, the trial court entered its summary judgment order in favor of Pender County.

On 2 April 2024, Plaintiff filed his Notice of Appeal from the summary judgment order. Three days later, on 5 April 2024, Plaintiff filed a Rule 60 Motion with the trial court. On 9 May 2024, the court entered its Rule 60 order, declining to hear Plaintiff’s motion for lack of jurisdiction, based on *York v. Taylor*, 79 N.C. App. 653, 655 (1986). Plaintiff noticed his appeal from that Rule 60 order. We note that Plaintiff’s second notice of appeal bears no filing stamp. To the extent that this Court lacks jurisdiction to hear the appeal from the Rule 60 order, in our discretion we grant *certiorari* to aid in our jurisdiction. N.C.G.S. § 7A-32 (2024).

II. Analysis

In both his prior 2018 case and in this present matter, Plaintiff has put forth several arguments challenging Pender County’s authority to collect property taxes. For example, Plaintiff has argued that Pender County lacks the authority to require payment in U.S. Dollars, pointing to the provision in the federal Constitution that “[n]o State shall . . . make any Thing but gold and silver Coin a tender in Payments

SULLIVAN V. PENDER CNTY.

*Opinion of the Court*

of Debts.” However, the United States Supreme Court has held, in its Legal Tender Cases, that the United States has the authority to make paper money, backed by nothing, legal tender for the payment of debts. *See Knox v. Lee*, 79 U.S. 457 (1871).

We have reviewed Plaintiff’s other arguments and conclude that they lack merit based on controlling precedent. We conclude that Pender County has lawfully exercised its authority to assess taxes against Plaintiff’s property. We, therefore, affirm the trial court’s orders.

AFFIRMED.

Panel consisting of Chief Judge DILLON and Judges STROUD and ZACHARY.

Report per Rule 30(e).