

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA26-105

Filed 19 August 2026

Granville County, No. 23CVD000205-380

BETTY TEBIB, Plaintiff,

v.

HAMZA TEBIB, Defendant.

Appeal by Defendant from Order entered 20 November 2025 by Judge J. Hoyte Stultz, III, in Granville County District Court. Heard in the Court of Appeals 2 June 2026.

No brief filed for Plaintiff-Appellee.

Hamza Tebib, pro se Defendant-Appellant.

HAMPSON, Judge.

Factual and Procedural Background

Hamza Tebib (Defendant) appeals from an Order denying his Motion for Recusal and Motion for Removal. However, Defendant's Notice of Appeal is not file-stamped, which is a jurisdictional defect compelling dismissal of the appeal. The Record before us tends to reflect the following:

On 7 March 2023, Betty Tebib (Plaintiff) filed a Complaint and Motion for Injunctive Relief in Granville County, alleging claims for equitable distribution; child support; post-separation support, alimony, and attorney fees; and for a temporary restraining order. The trial court entered a temporary restraining order against Defendant that same day.

On 12 June 2025, Defendant filed an amended Motion asking the trial court to, inter alia, remove Plaintiff's case from Granville County to Wake County pursuant to N.C. Gen. Stat. § 1-84 (Motion for Removal).¹ Section 1-84 allows for an action to be removed to an "adjacent county" if a party alleges "there are probable grounds to believe that a fair and impartial trial cannot be obtained in the county in which the action is pending" and the trial court "is of the opinion that a fair trial cannot be had in said county." Defendant's Motion alleged transfer of the case to Wake County was appropriate because the Granville County Clerk of Superior Court and trial court were named defendants in a pending action filed by Defendant in federal court.

On 20 October 2025, Defendant filed an amended complaint in federal court.² The complaint named twelve different defendants, including the trial court judge who had entered the temporary restraining order against Defendant and the Granville County Clerk of Superior Court.

¹ The original, unamended Motion is not included in the Record on Appeal.

² The original, unamended complaint is not included in the Record on Appeal.

On 23 October 2025, Defendant filed a Motion asking a Granville County trial court judge to recuse himself from Defendant's case (Motion for Recusal). Defendant had also named this trial court judge as a defendant in his amended federal complaint. The Motion alleged, because the judge was "personally and officially accused in that case, continued participation in the underlying matter creates an actual and apparent conflict of interest[.]"

On 20 November 2025, the trial court entered an Order denying Defendant's Motion for Recusal and Motion for Removal. Defendant provided written Notice of Appeal on 26 November 2025.

Appellate Jurisdiction

"[T]his Court has held the appellant's failure to include a file-stamped copy of the notice of appeal in the record on appeal is a jurisdictional defect, because this Court cannot determine if the notice of appeal was timely filed." *Erickson v. N.C. Dep't of Safety*, 264 N.C. App. 700, 703, 826 S.E.2d 821, 824 (2019) (citing *Bradley v. Cumberland Cnty.*, 262 N.C. App. 376, 381, 822 S.E.2d 416, 420 (2018), and then citing *Brooks, Comm'r of Labor v. Gooden*, 69 N.C. App. 701, 707, 318 S.E.2d 348, 352 (1984)). "It is the appellant's burden to produce a record establishing the jurisdiction of the court from which appeal is taken, and his failure to do so subjects the appeal to dismissal." *State v. Phillips*, 149 N.C. App. 310, 313-14, 560 S.E.2d 852, 855, (brackets omitted), *appeal dismissed*, 355 N.C. 499, 564 S.E.2d 230 (2002).

In the instant case, Defendant’s Notice of Appeal does not bear a file stamp indicating it was filed with the clerk of superior court. *See* N.C. R. App. P. Rule 3(a) (2026) (“Any party entitled by law to appeal from a judgment or order of a superior or district court rendered in a civil action or special proceeding may take appeal by *filing notice of appeal with the clerk of superior court* and serving copies thereof upon all other parties within the time prescribed by subsection (c) of this rule.” (emphasis added)). Although Defendant’s Notice of Appeal is dated 26 November 2025, “[w]e will not assume the notice of appeal was timely filed solely based upon [his] unverified notice of appeal.” *Bradley*, 262 N.C. App. at 382, 822 S.E.2d at 420.

Because a violation of Rule 3 jurisdictional, Defendant’s appeal must be dismissed. *Id.* at 382, 822 S.E.2d at 421; *Dogwood Dev. and Mgmt. Co. LLC v. White Oak Trans. Co., Inc.*, 362 N.C. 191, 197, 657 S.E.2d 361, 365 (2008) (“A jurisdictional default, therefore, precludes the appellate court from acting in any manner other than to dismiss the appeal.” (citations omitted)).

Conclusion

Accordingly, for the foregoing reasons, we dismiss the appeal.

DISMISSED.

Chief Judge DILLON and Judge ZACHARY concur.

Report per Rule 30(e).