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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-184

Filed 7 October 2026

Chowan County, No. 22CVS000198-200

UNITED DAUGHTERS OF THE CONFEDERACY, NORTH CAROLINA DIVISION, INC.; NORTH CAROLINA DIVISION OF THE SONS OF CONFEDERATE VETERANS, INC.; and THE COLONEL WILLIAM F. MARTIN CAMP 1521 OF THE SONS OF CONFEDERATE VETERANS, Plaintiffs,

v.

TOWN OF EDENTON, by and through JIMMY STALLINGS, MAYOR OF EDENTON, NORTH CAROLINA, Defendant.

Appeal by plaintiffs from order entered 28 August 2025 by Judge Wayland J. Sermons Jr. in Chowan County Superior Court. Heard in the Court of Appeals 15 September 2026.

James B. Wilson & Associates, by James Barrett Wilson, Jr., for plaintiff-appellant North Carolina Division of the Sons of Confederate Veterans, Inc.

The Law Office of H. Edward Phillips, PLLC, by H. Edward Phillips, III, for plaintiff-appellant United Daughters of the Confederacy, North Carolina Division, Inc.

Hornthal, Riley, Ellis & Maland, LLP, by M.H. Hood Ellis and Zachary M. Robeson, for defendant-appellee Town of Edenton.

GORE, Judge.

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This appeal arises from an action seeking to prevent the Town of Edenton from relocating the Chowan County Confederate Dead Memorial from its present location to a site near the Chowan County Courthouse. Plaintiffs United Daughters of the Confederacy, North Carolina Division, Inc. (“UDC”), and North Carolina Division of the Sons of Confederate Veterans, Inc. (“SCV”), appeal from an amended order dismissing their complaint under Rules 12(b)(1) and 12(b)(6). The trial court concluded that UDC’s consent to a memorandum of understanding (“MOU”) governing the relocation rendered its claims moot and that SCV lacked standing. The Colonel William F. Martin Camp 1521 of the Sons of Confederate Veterans (“Martin Camp”) did not appeal.

SCV contends that it sufficiently alleged standing based on its members’ status as taxpayers, associational standing, the allegedly ultra vires nature of the proposed relocation, and the Equal Protection Clause of Article I, Section 19 of the North Carolina Constitution. UDC purported to adopt SCV’s brief but presents no argument challenging the independent ruling that its claims are moot. We therefore dismiss UDC’s appeal. As to SCV, we affirm. SCV has not alleged the infringement of a legal right, an injurious misuse of public funds or property, standing possessed by any of its members, or another cognizable interest affected by the proposed relocation. Nor can SCV obtain standing merely by characterizing the Town’s proposed action as ultra vires or alleging a violation of a statute that confers no private enforcement right upon it. Accordingly, the trial court properly dismissed

SCV's claims for lack of standing.

I. Factual and Procedural Background

This appeal concerns the Town of Edenton's plan to relocate a Confederate monument presently situated in the median at the southern end of Broad Street near the Edenton waterfront. According to the complaint, the Bell Battery raised funds for the monument beginning in 1904, and the UDC dedicated and donated the completed monument on 10 May 1909. The monument was originally placed on the grounds of the former Chowan County Courthouse. In approximately June 1961, the Town and the Chowan County Board of Commissioners agreed to relocate the monument to its present location.

In February 2022, the Edenton Town Council voted to remove the monument from the waterfront and relocate it within the Town's corporate limits. At that time, the Town had not selected a new location. On 2 December 2022, UDC, SCV, and the Martin Camp commenced this action against the Town.

The complaint named only the three organizational plaintiffs and did not name any individual member as a plaintiff. Plaintiffs alleged that their organizations exist to honor and remember those who served in the armed forces of the Confederate States of America and to preserve the history of the Confederate soldier. They further alleged that their memberships include individuals who reside within Chowan County and the Town's corporate limits, are subject to taxation by those entities, and

are descendants of persons who lived in Chowan County during the Civil War.

Plaintiffs alleged that the contemplated relocation would violate N.C.G.S. § 100-2.1, that the Town was acting unlawfully and beyond its municipal authority, and that the Town's actions violated several provisions of the North Carolina Constitution. Based on those allegations, plaintiffs asserted claims seeking a declaratory judgment, an order quieting title to the monument under N.C.G.S. § 41-10, attorney's fees, and temporary and preliminary injunctive relief.

The Town answered on 6 February 2023. As part of its answer, the Town moved to dismiss under Rules 12(b)(1) and 12(b)(6), contending that plaintiffs lacked standing and had failed to state a claim upon which relief could be granted. On 14 March 2023, while the action was pending, the Town Council selected Hollowell Park on West Queen Street as the proposed relocation site. Following a hearing, the trial court entered a restraining order on 30 March 2023 enjoining the Town from removing or relocating the monument and requiring plaintiffs to post a \$500.00 bond.

The Town subsequently abandoned Hollowell Park as the proposed site. On 25 November 2024, the Town and Chowan County entered into a MOU governing the monument's relocation. Under the MOU, upon satisfaction of certain conditions, the Town would convey the monument to Chowan County, and the County would relocate it to County-owned open space behind the current Chowan County Courthouse near the existing War Memorial.

The Town's motion to dismiss came on for hearing on 25 August 2025. Counsel

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representing UDC and Martin Camp informed the trial court that, “on behalf of [his] clients,” he supported the MOU. Counsel explained that, when plaintiffs filed the action, they did not know whether the Town would select a site satisfying N.C.G.S. § 100-2.1, but “a lot ha[d] changed with regard to the MOU.” He ultimately stated that the Town and County had satisfied the requirements of subsection 100-2.1(b)(2) because the proposed site remained within the Town, would provide similar prominence and greater access, and would place the monument near other veterans’ memorials.

SCV did not join that position. Its counsel acknowledged that the courthouse site was an improvement over Hollowell Park but maintained that it did not provide the monument with similar prominence. SCV also raised concerns about the stability of the ground at the proposed site.

Following the hearing, the trial court entered an order on 27 August 2025 and an amended order the following day. The amended order superseded the original order. In the amended order, the court concluded that UDC and Martin Camp had consented to the MOU and that their claims were therefore moot. The court separately concluded that SCV lacked standing. The court granted the Town’s motion under Rules 12(b)(1) and 12(b)(6), dismissed the action without prejudice, and dissolved the restraining order. The amended order also denied plaintiffs’ motions to amend the complaint and consolidate this action with another pending action involving the monument. Neither ruling is challenged in the appellate briefs.

SCV filed notice of appeal on 26 September 2025, and UDC filed a separate notice of appeal on 28 September 2025. Martin Camp did not appeal.

After the record was filed in this Court, SCV obtained an extension through 16 April 2026 to file its principal brief. UDC neither joined SCV's request nor independently sought an extension of its briefing deadline. On 16 April 2026, the same day SCV filed its brief, UDC filed a notice adopting SCV's brief *in toto*. The Town thereafter moved to dismiss UDC's appeal, contending that UDC's adoption was untimely and that the adopted brief did not challenge the trial court's determination that UDC's claims were moot.

II. Analysis

A. UDC's Appeal

The Town moves to dismiss UDC's appeal under Rules 13, 25, and 28 of the North Carolina Rules of Appellate Procedure. It argues that UDC neither filed a brief within the time allowed nor obtained an extension, and that UDC's later adoption of SCV's brief did not preserve any challenge to the trial court's determination that UDC's claims were moot.

Rule 13(a)(1) requires an appellant to file its brief within thirty days after the record is filed unless the Court extends that deadline. N.C.R. App. P. 13(a)(1). If an appellant fails to file a brief within the time allowed, "the appeal may be dismissed on motion of an appellee or on the court's own initiative." N.C.R. App. P. 13(c). Because a violation of Rule 13 is nonjurisdictional, dismissal is generally reserved for

a substantial or gross violation of the appellate rules. *Dogwood Dev. & Mgmt. Co. v. White Oak Transp. Co.*, 362 N.C. 191, 198–200 (2008).

Rule 28(f) permits “[a]ny party to any appeal [to] adopt by reference portions of the briefs of others.” N.C.R. App. P. 28(f). But adoption carries only the issues and arguments actually presented in the adopted brief. Under Rule 28(a), “[i]ssues not presented and discussed in a party’s brief are deemed abandoned.” N.C.R. App. P. 28(a); *see also* N.C.R. App. P. 28(b)(6) (“Issues not presented in a party’s brief, or in support of which no reason or argument is stated, will be taken as abandoned.”).

Here, the record was filed on 24 February 2026, making UDC’s brief due on 26 March 2026. SCV obtained an extension through 16 April 2026, but UDC neither joined that request nor independently sought an extension. On 17 April 2026, UDC filed a notice adopting SCV’s brief *in toto*.

We need not decide whether UDC’s three-week delay, standing alone, constitutes a substantial violation warranting dismissal. Even assuming UDC’s notice of adoption was timely and effective, the adopted brief does not challenge the ground upon which the trial court dismissed UDC’s claims. The amended order concluded that UDC had consented to the MOU and that its claims were therefore moot. SCV’s brief addresses only whether plaintiffs possessed standing to challenge the Town’s proposed relocation. It does not dispute that UDC consented to the MOU, address the legal effect of that consent, or argue that a live controversy involving UDC remained after the MOU was executed. UDC’s notice of adoption supplies no

additional argument on those matters.

Thus, even if UDC could establish standing under one or more of the theories advanced in SCV's brief, the trial court's independent determination that UDC's claims were moot would remain unchallenged. Because UDC has abandoned any challenge to the dispositive ground upon which its claims were dismissed, it has presented no basis upon which this Court could disturb that portion of the amended order. We therefore allow the Town's motion and dismiss UDC's appeal.

B. SCV's Standing

SCV argues the trial court erred by dismissing its claims for lack of standing. SCV asserts four principal bases for standing: (1) its members possess taxpayer standing; (2) SCV possesses associational standing to sue on behalf of those members; (3) the Town's alleged violation of N.C.G.S. § 100-2.1 constitutes an ultra vires act that taxpayers and residents may challenge; and (4) the Town's actions infringed rights protected by the North Carolina Constitution. The Town responds that each theory is foreclosed by *United Daughters of the Confederacy, North Carolina Division, Inc. v. City of Winston-Salem*, 383 N.C. 612 (2022), and this Court's recent decision in *McRoy v. Pitt Cnty.*, 301 N.C. App. 384, 387 (2025), *appeal dismissed*, 930 S.E.2d 276 (N.C. 2026), and *review denied*, 930 S.E.2d 620 (N.C. 2026). We agree with the Town.

1. Governing Law

We review de novo a trial court's dismissal for lack of standing. *Soc'y for the*

Hist. Pres. of the Twenty-Sixth N.C. Troops, Inc. v. City of Asheville, 385 N.C. 744, 748 (2024). Under de novo review, we consider the matter anew, viewing the allegations and supporting record in the light most favorable to the nonmoving party. *Id.*; *United Daughters*, 383 N.C. at 624.

“Standing is a necessary prerequisite to a court’s proper exercise of subject matter jurisdiction.” *United Daughters*, 383 N.C. at 649 (cleaned up). Accordingly, a challenge to standing is properly considered under Rule 12(b)(1). *Soc’y for the Hist. Pres.*, 385 N.C. at 748. A party seeking through a private action to prevent the removal or relocation of a monument owned by a political subdivision must, at a minimum, allege a cognizable legal interest affected by the challenged governmental action. *Id.* Such an interest may arise from ownership, a contract, a cause of action created by statute, or another right protected by the common law or the state or federal constitutions. *Id.* at 748–49.

In *McRoy*, this Court considered materially indistinguishable standing arguments arising from Pitt County’s relocation of a Confederate monument. The plaintiffs there included SCV, UDC, and seven individually named county residents. *McRoy*, 301 N.C. App. at 385. They asserted taxpayer standing, associational standing, standing to challenge an ultra vires violation of N.C.G.S. § 100-2.1, and standing under Article I, Section 19 of the North Carolina Constitution. *Id.* at 388–93. This Court rejected each theory and affirmed dismissal under Rule 12(b)(1). *Id.* at 394.

Because *McRoy* is a published decision of this Court and no intervening decision of our Supreme Court has displaced its holdings, we are bound by it. *See In re Civil Penalty*, 324 N.C. 373, 384 (1989).

2. Taxpayer and Associational Standing

SCV first contends its members possess standing as Town and Chowan County taxpayers because relocating the Monument will necessarily require the expenditure of public funds for an unauthorized purpose. SCV further argues that it may assert those members' rights through associational standing.

A plaintiff invoking taxpayer standing must allege that the plaintiff is a taxpayer of the relevant governmental entity. *United Daughters*, 383 N.C. at 630–31. Taxpayer status, coupled with a general allegation that the challenged governmental action will involve public expenditures, is insufficient; the complaint must allege facts demonstrating a resulting legal or factual injury to the plaintiff as a taxpayer, such as an injurious misuse, misappropriation, or unlawful diversion of public funds. *Id.* at 629, 631; *McRoy*, 301 N.C. App. at 388–89. The complaint must also allege facts adequately establishing either that “there has been a demand on and a refusal by the proper authorities to institute proceedings for the protection of the interests of the public agency or political subdivision” or that such a demand “would be useless.” *United Daughters*, 383 N.C. at 630–31 (citation omitted).

An association may sue on behalf of its members when: “(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect

are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *River Birch Assocs. v. City of Raleigh*, 326 N.C. 100, 130 (1990) (citation omitted). The association must satisfy each requirement. Consequently, an association lacks representational standing if its members would not possess standing individually. *McRoy*, 301 N.C. App. at 390.

The complaint alleges that plaintiffs’ memberships include unidentified individuals who reside within Chowan County and the Town’s corporate limits and are “subject to taxation by such entities.” But the complaint does not allege that any member demanded that the appropriate governmental authorities institute proceedings to prevent an unlawful expenditure and that those authorities refused. Nor does it allege facts showing that such a demand would have been useless.

The complaint also does not identify any particular appropriation, expenditure, diversion, or misuse of taxpayer funds. SCV’s appellate assertion that relocation “necessarily” will involve public expenditures cannot supply factual allegations absent from the complaint. *See United Daughters*, 383 N.C. at 631 (explaining that a party is bound by its pleadings). More importantly, *McRoy* rejected materially identical taxpayer allegations even though the plaintiffs there included seven individually named county residents. *McRoy*, 301 N.C. App. at 389. SCV’s allegations here are no stronger.

Because the complaint does not establish that any SCV member possesses

taxpayer standing individually, SCV cannot satisfy the first requirement for associational standing. Its organizational purpose and its members' asserted genealogical connections to the persons memorialized do not cure that deficiency. *See United Daughters*, 383 N.C. at 631–33; *McRoy*, 301 N.C. App. at 388–90. We therefore hold that SCV has established neither taxpayer nor associational standing.

3. Proprietary, Contractual, or Other Legal Interest

SCV also relies on plaintiffs' historical and organizational connections to the Monument. It contends that *Society for the Historical Preservation* demonstrates that an organization may possess standing to challenge the removal of a historical monument.

An organization's participation in funding, erecting, restoring, or preserving a monument does not, standing alone, establish a cognizable legal injury. *United Daughters*, 383 N.C. at 629–30. The organization must affirmatively allege an ownership interest, a contractual right, or another legally enforceable interest affected by the governmental action. *Id.*; *Soc'y for the Hist. Pres.*, 385 N.C. at 748–52.

In *Society for the Historical Preservation*, the plaintiff alleged that it had entered a written agreement with the City of Asheville to restore the Vance Monument and that the City breached that agreement. 385 N.C. at 746–47. Because the plaintiff alleged a valid contract and its breach, it alleged a legal injury sufficient to establish standing to pursue the contract claim. *Id.* at 751. The Supreme Court

nevertheless affirmed dismissal of the plaintiff's remaining declaratory and injunctive claims because those claims suffered from the same absence of a legally protected interest identified in *United Daughters*. *Id.* at 751–52.

The present complaint alleges no comparable right belonging to SCV. It does not allege that SCV owns the Monument, retained any interest in it, entered a contract with the Town or County governing its location, or succeeded to any legally enforceable right in the Monument. To the contrary, the complaint alleges that UDC dedicated and donated the Monument. SCV's interest in preserving Confederate history, its members' ancestry, and the organizations' historical involvement with the Monument do not constitute proprietary or contractual interests.

Nor does the complaint's inclusion of a claim denominated as one to "quiet title" alter the analysis. Although plaintiffs invoked N.C.G.S. § 41-10, the complaint does not allege that SCV holds legal or equitable title to the Monument or identify any other property interest belonging to SCV that the Town has adversely claimed. Merely labeling a claim as one to quiet title cannot supply the underlying ownership or legal interest necessary to create standing. Unlike the plaintiff in *Society for the Historical Preservation*, SCV has not alleged the infringement of any existing property or contractual right.

We therefore hold that SCV has not alleged a proprietary, contractual, or other cognizable legal interest in the Monument.

4. The Monument Protection Act and SCV's Ultra Vires Theory

SCV next asserts an alternative basis for standing. It contends that residents and taxpayers may restrain a municipality from acting beyond its lawful authority and that the Town's proposed relocation is ultra vires because the courthouse site does not satisfy the similar-prominence requirement of N.C.G.S. § 100-2.1(b)(2).

Whether the proposed relocation complies with that provision, however, is a merits question distinct from the threshold issue of SCV's standing to obtain judicial review of the alleged statutory violation. Section 100-2.1 does not expressly create a private cause of action. *United Daughters*, 383 N.C. at 638. Even assuming the statute could be construed to imply one, neither its text nor the allegations of the complaint suggest that SCV belongs to a class upon which the General Assembly conferred a private enforcement right. *Id.* Nor does the statute confer upon SCV a property, contractual, or other personal legal right in a publicly owned monument. *Id.* at 637–38.

McRoy expressly rejected the contention that characterizing a municipality's alleged violation of N.C.G.S. § 100-2.1 as ultra vires independently establishes standing. 301 N.C. App. at 392. A plaintiff must still identify a legal or factual injury or another cognizable interest affected by the alleged statutory violation. *Id.*

SCV has identified none. Its assertion that the Town is acting beyond its statutory authority does not cure the deficiencies in its taxpayer-standing allegations or create a private right of enforcement that the General Assembly did not provide. Accordingly, we hold that SCV's ultra vires characterization does not confer standing

to enforce N.C.G.S. § 100-2.1.

5. *Constitutional Standing*

Finally, SCV argues that the Town's actions discriminate against plaintiffs and their members based on their ancestry and historical associations. It maintains that Article I, Section 19 of the North Carolina Constitution entitles plaintiffs to the same opportunity to litigate their claims that was afforded to the plaintiffs in *North Carolina State Conference of NAACP v. Alamance County*, 293 N.C. App. 107 (2024), and *NAACP v. Gaston Cnty.*, 928 S.E.2d 625 (N.C. Ct. App. 2026).

The infringement of a right arising under the North Carolina Constitution may constitute a legal injury sufficient to establish standing. *United Daughters*, 383 N.C. at 626. But the plaintiff must identify the constitutional right allegedly infringed and allege facts showing how the defendant's conduct deprived the plaintiff of that right. Conclusory assertions of unequal treatment, discrimination, or constitutional injury are insufficient. *Id.* at 629–30; *McRoy*, 301 N.C. App. at 393.

The complaint alleges generally that the Town's actions violate Article I, Sections 2, 12, 14, 18, and 19 of the North Carolina Constitution. It does not identify any individual SCV member whose constitutional rights were infringed, allege that the Town classified or treated SCV or a member differently from a similarly situated person, or identify any liberty, property, or other legally protected interest of which SCV was deprived. The allegations are materially indistinguishable from those rejected in *United Daughters* and *McRoy*. See *McRoy*, 301 N.C. App. at 393.

SCV's reliance on *Alamance County* and *Gaston County* does not change that result. As *McRoy* explains, *Alamance County* did not address standing, and the record there does not indicate that standing was challenged. *Id.* The case reached this Court after the trial court ruled on cross-motions for summary judgment. *Alamance Cnty.*, 293 N.C. App. at 109. *Gaston County* likewise involved an appeal from summary judgment on constitutional claims and did not decide whether the plaintiffs possessed standing. 928 S.E.2d at 633. Neither decision establishes standing *sub silentio* for every organization seeking to challenge governmental action concerning a Confederate monument.

Different litigants' ability to proceed to the merits in cases in which standing was not contested does not itself create a constitutional right for SCV to obtain merits review without first establishing its own standing. Because SCV has not alleged facts showing the infringement of any constitutional right belonging to it or its members, we hold that SCV has not established constitutional standing.

III. Conclusion

SCV's asserted bases for standing are materially indistinguishable from those rejected in *McRoy*. The complaint does not establish taxpayer standing because it alleges neither a demand and refusal nor facts demonstrating futility, and it identifies no specific misuse or unlawful diversion of public funds. Because SCV's members would not possess standing individually, SCV also lacks associational standing. The complaint alleges no ownership, contractual, or other cognizable legal

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interest belonging to SCV, and N.C.G.S. § 100-2.1 neither creates a private cause of action for SCV nor confers a personal legal right that SCV may enforce. Finally, the complaint's conclusory constitutional allegations do not identify a constitutional right infringed by the Town.

We therefore affirm the amended order dismissing SCV's claims without prejudice under Rule 12(b)(1). Because SCV lacks standing, we do not reach whether the relocation contemplated by the MOU satisfies N.C.G.S. § 100-2.1(b)(2), including whether the proposed site provides similar prominence, honor, visibility, availability, and access. We likewise do not address the alternative grounds for dismissal under Rule 12(b)(6).

UDC's appeal is dismissed, and the amended order is affirmed as to SCV.

DISMISSED IN PART; AFFIRMED IN PART.

Judges STROUD and CARPENTER concur.

Report per Rule 30(e).