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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-870

Filed 21 October 2026

Wake County, No. 19CVD006138-910

ALFRED BENEDICT HOLT, III, Plaintiff,

v.

LATOYA PRATHER, Defendant.

Appeal by Plaintiff from order entered 20 May 2025 by Judge Rhonda Young in Wake County District Court. Heard in the Court of Appeals 25 February 2026.

Alfred Benedict Holt, III, pro se, for plaintiff-appellant.

Law Offices of Raushanah F. Rodgers, PLLC, by Raushanah Rodgers, for defendant-appellee.

STADING, Judge.

Alfred Benedict Holt, III (“Plaintiff”) appeals from the trial court’s order modifying permanent child custody. On appeal, Plaintiff challenges the trial court’s determination that a substantial change in circumstances justified child custody modification. Plaintiff also presents several evidentiary and constitutional arguments. After careful review, we affirm the trial court’s order.

I. Background

Plaintiff and Latoya Prather (“Defendant”) are the biological parents of a minor child. On 6 March 2020, the trial court entered a temporary custody order. The order concluded it was in the minor child’s best interest that “temporary legal and physical care, custody, and control be granted to the parties jointly.”

On 11 March 2022, the trial court entered a permanent joint custody order. The trial court concluded that the parties “are fit and proper persons to share joint legal custody of [their] minor child.” The trial court ordered the parties to have joint legal custody and set out a detailed visitation schedule, which “corresponds to Plaintiff’s . . . work schedule.” With respect to custody exchanges, the order provided:

All exchanges of the minor child shall take place at the minor child’s daycare or school. When school is not in session, the exchanges shall take place in the parking lot of Barnes and Noble This location is currently approximately halfway between the parties residences. If either party moves to a different residence, the parties may agree to exchange the minor child at a different location which is approximately halfway between the residences.

On 2 July 2024, the trial court entered an order for civil contempt. The contempt order found that Plaintiff had willfully violated the 11 March 2022 permanent joint custody order. As a purge condition,¹ the trial court ordered Plaintiff

¹ Generally, purge conditions are provisions that, if met, allow individuals to “purge” themselves of contempt. *See generally* N.C. Gen. Stat. § 5A-22 (2025).

to “ensure that he is on time for each exchange until November 19, 2024. Plaintiff shall be at the exchange location by 8AM.” Additionally, the trial court ordered Plaintiff to report to the Wake County courthouse on 19 November 2024 to provide proof of compliance with the purge conditions.

On 19 March 2025, the trial court held a hearing on Defendant’s motions to modify custody and show cause for contempt. On 20 March 2025, the trial court entered an order for civil contempt. The trial court found that Plaintiff had willfully violated a memorandum of judgment entered by the court on 2 July 2024, which ordered Plaintiff to comply with Defendant’s 15 April 2024 request for production. As a purge condition, Plaintiff was ordered to “produce all documents that have not been produced as outlined above within 7 days of the entry of this order.” The trial court also ordered Plaintiff to report to the Wake County courthouse on 9 May 2025, to provide proof of compliance with the purge conditions.

On 20 March 2025, the trial court entered an order for civil contempt regarding Plaintiff violating the custody exchange provisions of the 11 March 2022 permanent custody order. The trial court found that Plaintiff violated the permanent custody order by:

Failing to meet at the Barnes and Nobel [sic] in Cary, NC on multiple occasions including the following dates, February 19, 2024, March 9, 2024, March 11, 2024, March 25, 2024, March 29, 2024, May 27, 2024, June 21, 2024, July 1, 2024. Defendant did not consent to change the exchange location.

As a purge condition, Plaintiff was ordered to pay a \$400.00 fine to Defendant within thirty days. The trial court also ordered Plaintiff to report to the Wake County courthouse on 9 May 2025 to provide proof of compliance with the purge conditions.

On 20 May 2025, the trial court entered an order modifying permanent child custody. The trial court found that “there is a substantial change in circumstance affecting the health and general welfare of the minor child.” The trial court ordered continued shared joint legal custody of the minor child. The trial court modified the parties’ physical custody schedule and gave Defendant primary physical custody and Plaintiff secondary physical custody. The trial court also modified custodial exchanges by providing it would occur at the minor child’s daycare or school. Additionally, the trial court ordered the minor child to remain in gymnastics and Girl Scouts. The trial court specified that “activities occurring during a parent’s custodial time requires the parent to ensure the minor child is at her extracurricular activities.” Plaintiff entered his written notice of appeal on 18 June 2025.

II. Analysis

On appeal, Plaintiff challenges the trial court’s determination that a substantial change in circumstances justified child custody modification. Plaintiff also presents several evidentiary and constitutional arguments. Before examining the merits, however, we address a myriad of preliminary issues both parties raised.

A. Preliminary Issues

1. Defendant’s Motion to Dismiss

On 7 October 2025, Defendant moved to dismiss this appeal. Defendant argues this appeal should be dismissed given Plaintiff’s violation of Rules 7 and 11 of the North Carolina Rules of Appellate Procedure. Defendant also contends Plaintiff falsely represented that a certified transcript was served on 4 August 2025. For the reasons below, we decline to dismiss this appeal.

This Court analyzes violations of the North Carolina Rules of Appellate Procedure primarily through three lenses: “(1) waiver occurring in the trial court; (2) defects in appellate jurisdiction; and (3) violation of nonjurisdictional requirements.” *Dogwood Dev. & Mgmt. Co., LLC v. White Oak Transp. Co.*, 362 N.C. 191, 194, 657 S.E.2d 361, 363 (2008). This Court considers a violation of Rule 7 as a nonjurisdictional defect. *N.C. State Bar v. Sossomon*, 197 N.C. App. 261, 270, 676 S.E.2d 910, 917 (2009) (“Rule 7 is a nonjurisdictional defect.”); *see also Lawrence v. Sullivan*, 192 N.C. App. 608, 617, 666 S.E.2d 175, 181 (2008). Likewise, this Court considers a violation of Rule 11 as a nonjurisdictional defect. *See Ramsey v. Ramsey*, 264 N.C. App. 431, 435, 826 S.E.2d 459, 463 (2019); *see also K2HN Constr. N.C., LLC v. Five D Contractors, Inc.*, 267 N.C. App. 207, 212, 832 S.E.2d 559, 563 (2019).

Nonjurisdictional requirements are “designed primarily to keep the appellate process ‘flowing in an orderly manner.’” *Dogwood*, 362 N.C. at 198, 657 S.E.2d at 365 (citation omitted). “A party’s failure to comply with nonjurisdictional rule

requirements normally should not lead to dismissal of the appeal.” *Id.* (citation modified). That said, dismissal of an appeal is appropriate for nonjurisdictional defects when it falls within the categories of “substantial failure” or “gross violation.” *Id.* at 199, 657 S.E.2d at 366.

This Court may consider the following factors in determining whether the noncompliance rises to the level of “substantial failure” or “gross violation”: (1) “whether and to what extent the noncompliance impairs the court’s task of review,” and (2) “whether and to what extent review on the merits would frustrate the adversarial process.” *Id.* at 200, 657 S.E.2d at 366–67. In addition, this Court may also consider the number of rules violated. *Id.* at 200, 657 S.E.2d at 367.

a. Rule 7

Defendant argues Plaintiff has failed “to ensure the timely and proper filing of the certified transcript after ordering it,” and that “no certification from a court reporter or authorized transcriptionist has been filed or served.” Defendant also argues that while Plaintiff filed a transcript contract, there is “no evidence in the record that the Certified Transcript and/or Transcripts Documentation Form of the trial court proceedings has been filed with the Clerk of Superior Court of Wake County,” and Defendant has not been served with the transcript contract.

Rule 7 of the North Carolina Rules of Appellate Procedure, entitled “Transcripts,” provides the following:

(a) **Scope.** This rule applies to the ordering, preparation,

delivery, and filing of each transcript that is to be designated as part of the record on appeal.

(b) **Ordering by a Party.** A party may order a transcript of any proceeding that the party considers necessary for the appeal.

(1) **Transcript Contract.** A party who orders a transcript for the appeal after notice of appeal is filed or given must use an Appellate Division Transcript Contract form to order the transcript. That form is available on the Supreme Court's rules webpage.

(2) **Service of Transcript Contract.** An appellant must serve its transcript contract on each party and on the transcriptionist no later than fourteen days after filing or giving notice of appeal. An appellee must serve its transcript contract on each party and on the transcriptionist no later than twenty-eight days after any appellant files or gives notice of appeal.

(3) **Transcript Documentation.** A party who has ordered a transcript for the appeal, whether ordered before or after notice of appeal, must complete an Appellate Division Transcript Documentation form. That form is available on the Supreme Court's rules webpage.

(4) **Service of Transcript Documentation.** A party must serve the transcript documentation on all other parties within the time allowed under subsection (b)(2) of this rule for that party to serve a transcript contract.

. . . .

(d) **Formatting.** The transcriptionist must format the transcript according to standards set by the Administrative Office of the Courts.

(e) **Delivery.**

(1) **Deadlines.** The transcriptionist must deliver the transcript to the parties no later than ninety days after having been served with the transcript contract or the appellate entries, except:

a. In a capitally tried case, the deadline is one hundred eighty days.

b. In an undisciplined or delinquent juvenile case under Subchapter II of Chapter 7B of the General Statutes, the deadline is sixty days.

c. In a special proceeding about the admission or discharge of clients under Article 5 of Chapter 122C of the General Statutes, the deadline is sixty days.

(2) **Certification.** The transcriptionist must certify to the parties and to the clerk of superior court that the transcript has been delivered.

....

(g) **Neutral Transcriptionist.** The transcriptionist must not have a personal or financial interest in the proceeding unless the parties otherwise agree by stipulation.

N.C. R. App. P. 7.

Under this rule, Plaintiff was required to use a transcript contract to order the transcript and serve that transcript contract “on each party and on the transcriptionist no later than fourteen days after filing or giving notice of appeal.”

N.C. R. App. P. 7(b)(2). Having ordered a transcript for appeal, Plaintiff was required to complete an appellate division transcript documentation form, and “serve the transcript documentation on all other parties within the time allowed under

subsection (b)(2) of this rule for that party to serve a transcript contract.” N.C. R. App. P. 7(b)(4). Finally, the *transcriptionist* “must deliver the transcript to the parties no later than ninety days after having been served with the transcript contract,” N.C. R. App. P. 7(e)(1), and “must certify to the parties and to the clerk of superior court that the transcript has been delivered.” N.C. R. App. P. 7(e)(2); *see also Harvey v. Stokes*, 137 N.C. App. 119, 123, 527 S.E.2d 336, 339 (2000).

As discussed, however, a Rule 7 violation is a nonjurisdictional defect. *See Sossomon*, 197 N.C. App. at 270, 676 S.E.2d at 917. Here, Plaintiff’s noncompliance does not rise to the level of a “substantial failure or gross violation.” *Dogwood*, 362 N.C. at 200, 657 S.E.2d at 366. This Court’s ability to review Plaintiff’s appeal on the merits is not hindered, and the adversarial process is not frustrated. *See, e.g., Bradley v. Cumberland Cnty.*, 262 N.C. App. 376, 382, 822 S.E.2d 416, 420 (2018). We therefore decline to dismiss Plaintiff’s appeal.

b. Rule 11

Defendant also argues that Plaintiff violated Rule 11(a) of the North Carolina Rules of Appellate Procedure since she “never properly served Defendant-Appellee with the complete Proposed Record on Appeal and instead filed piecemeal documents.”

Rule 11(a) provides the procedure for settling the record on appeal by agreement. *See* N.C. R. App. P. 11(a). This rule is inapplicable, however, because the

parties did not “by agreement entered in the printed record settle a proposed record on appeal” *Id.*

Rule 11(b) of the North Carolina Rules of Appellate Procedure provides:

(b) By Appellee’s Approval of Appellant’s Proposed Record on Appeal. If the record on appeal is not settled by agreement under Rule 11(a), the appellant shall, within the same times provided, serve upon all other parties a proposed record on appeal constituted in accordance with the provisions of Rule 9. Within thirty days (thirty-five days in capitally tried cases) after service of the proposed record on appeal upon an appellee, that appellee may serve upon all other parties a notice of approval of the proposed record on appeal, or objections, amendments, or a proposed alternative record on appeal in accordance with Rule 11(c). If all appellees within the times allowed them either serve notices of approval or fail to serve either notices of approval or objections, amendments, or proposed alternative records on appeal, appellant’s proposed record on appeal thereupon constitutes the record on appeal.

N.C. R. App. P. 11(b).

Here, the record shows that Plaintiff’s proposed record on appeal was served upon Defendant on 4 August 2025. Since Defendant did not challenge the record within thirty days under Rule 11(c), Plaintiff’s proposed record “constitutes the record on appeal.” *Id.* Defendant fails to explain any further or cite to authority regarding her argument, therefore Plaintiff’s alleged error is deemed abandoned. *See* N.C. R. App. P. 28(a) (“Issues not presented and discussed in a party’s brief are deemed abandoned.”); *see also* N.C. R. App. P. 28(c) (“If the appellee presents issues in addition to those stated by the appellant, the appellee’s brief must contain a full, non-

argumentative summary of all material facts necessary to understand the new issues supported by references to pages in the record on appeal . . .”).

Defendant further argues that Plaintiff violated Rule 11(c) of the North Carolina Rules of Appellate Procedure. Specifically, Defendant asserts that Plaintiff unilaterally filed “a ‘Settled Record’ without following the mandatory procedure for judicial settlement or agreement of the parties.” Despite Defendant’s urging, however, it was her obligation to raise any potential issues with the record. *See* N.C. R. App. P. 11(b). As Defendant did not do so, this Court considers the record settled. *See id.* Regardless, any error would amount to a nonjurisdictional defect, and, under these facts, would not rise to the level of a “substantial failure or gross violation.” *Dogwood*, 362 N.C. at 200, 657 S.E.2d at 366; *see also Sullivan*, 192 N.C. App. at 617, 666 S.E.2d at 181.

c. False Certification of Service

Defendant next argues this appeal should be dismissed because she never received the certified transcript despite Plaintiff certifying service.

Entitled “Manner of Service,” Rule 26(c) of the North Carolina Rules of Appellate Procedure provides:

Service of any item may be made upon a party’s attorney of record or upon a party in the manner provided for service and return of process in Rule 4 of the Rules of Civil Procedure. Service of any item may alternatively be made upon a party’s attorney of record or upon a party by delivering a copy to either or by mailing a copy to the recipient’s last known address, or if no address is known,

by filing it in the office of the clerk with whom the original item is filed. Delivery of a copy within this rule means handing it to the attorney or to the party or leaving it at the attorney's office with a partner or employee. Service by mail is complete upon deposit of the item enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service, or, for those having access to such services, upon deposit with the State Courier Service or Inter-Office Mail.

If the item to be served is filed electronically in the appellate courts using the appellate courts' electronic-filing site, then service may alternatively be made upon a party's attorney of record by e-mail to the attorney's correct and current e-mail address. If the item to be served is filed with the clerk of superior court using *Odyssey*, the trial court's electronic-filing system, then service may alternatively be made using the service feature in that system.

N.C. R. App. P. 26(c).

Here, aside from claiming she has not received the transcript, Defendant has not provided evidence of a false certification. *See* N.C. R. App. P. 25(a) ("Motions to dismiss shall be supported by affidavits or certified copies of docket entries which show the failure to take timely action or otherwise perfect the appeal . . ."). Even assuming Defendant did not receive the certified transcript, such violation is nonjurisdictional and not substantial enough to warrant dismissal of Plaintiff's appeal since Defendant had actual notice of the filings evidenced by her own brief. Accordingly, we decline to dismiss the present appeal.

2. *Plaintiff's Motion for Sanctions*

On 12 November 2025, Plaintiff filed with this Court a motion for sanctions pursuant to Rule 34 of the North Carolina Rules of Appellate Procedure. Plaintiff requests this Court to sanction Defendant for the cost of his appeal and provides an itemized list of his applicable costs. Besides referencing Rule 34, however, Plaintiff has failed to present any argument as to why Defendant should be sanctioned under that rule. Therefore, Plaintiff's argument is deemed abandoned. *See* N.C. R. App. P. 28(a) ("Issues not presented and discussed in a party's brief are deemed abandoned.").

3. *Plaintiff's Motion to Stay*

On 24 January 2026, Plaintiff requested a temporary stay of the underlying order. Plaintiff also attached a motion to stay to his notice of appeal entered on 18 June 2025. However, since we affirm the trial court's order, Plaintiff's motion is denied. *See Chavez v. McFadden*, 374 N.C. 458, 467, 843 S.E.2d 139, 146 (2020) ("A case is 'moot' when a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing controversy." (citation omitted)).

B. Merits

Having addressed the preliminary issues, we now turn to Plaintiff's numerous arguments regarding the merits of the case. We take each argument in turn.

1. *The Trial Court's Order*

Without challenging specific findings, Plaintiff maintains the trial court ignored "[u]ncontroverted current documents." We disagree.

“[A]n order of a court of this State for custody of a minor child may be modified or vacated at any time, upon motion in the cause and a showing of changed circumstances by either party or anyone interested.” N.C. Gen. Stat. § 50-13.7(a) (2025). “The trial court’s examination of whether to modify an existing child custody order is twofold. The trial court must determine whether there was a change in circumstances and then must examine whether such a change affected the minor child.” *Shipman v. Shipman*, 357 N.C. 471, 474, 586 S.E.2d 250, 253 (2003). If “the trial court determines that there has been a substantial change in circumstances and that the change affected the welfare of the child, the court must then examine whether a change in custody is in the child’s best interests.” *Id.* “We review an order for modification of custody to determine if the findings of fact are supported by substantial evidence and if the conclusions of law are supported by the findings; the trial court determines the credibility and weight of the evidence.” *Walsh v. Jones*, 263 N.C. App. 582, 588, 824 S.E.2d 129, 134 (2019).

a. Findings

Upon review of an order modifying child custody, this Court “must examine the trial court’s findings of fact to determine whether they are supported by substantial evidence.” *Shipman*, 357 N.C. at 474, 586 S.E.2d at 253. “Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Thomas v. Thomas*, 233 N.C. App. 736, 738, 757 S.E.2d 375, 378 (2014) (citation omitted).

The trial court made the following pertinent findings:

9. That due to the minor child's age she was not engaged in extracurricular activities when the order was entered and is now involved in gymnastics and girl scouts.

10. That the court does find there is a substantial change in circumstances affecting the health and general welfare of the minor child.

11. That the court finds that this is a high conflict case.

12. That the court finds that the parents are unable to communicate regarding what is in the best interests of the minor child.

13. That there is a consistent issue regarding pick up and drop offs of the minor child.

14. That there are ongoing conflicts regarding extra-curricular/ recreational activities for the minor child, which the court finds are affecting the minor child's health and general welfare.

15. That the Court notes that there were at least three (3) Motions and Orders to show cause before the Court wherein the Plaintiff had the burden upon him to show why he should not be held in contempt of this Court's permanent custody order.

16. That the court finds that the Plaintiff did not offer any evidence regarding the show causes and as such, the court takes that information in the show causes as true. There was virtually no testimony to dispute the Defendant's account as alleged in her Motion for Order to Show Cause and the court entered orders for the Plaintiff to appear and testify as to why he should not be held in contempt.

17. That since the entry of this court's permanent custody order on March 11, 2022, the parties were on a joint custodial schedule and that based on Plaintiff's work schedule, Plaintiff has worked a substantial amount of

time and overtime since the Order was entered, and some of the times he has worked, have been during his custodial time.

18. That even though the Plaintiff testified that he no longer works overtime, the Court does not find that testimony to be credible based on the exhibit introduced as Plaintiff's exhibit 8, that shows he is still working overtime.

19. That during Plaintiff's custodial time wherein he works overtime, the court is unsure exactly where the minor child is or who cares for the minor child.

20. That Defendant (mom) raised an issue regarding Plaintiff's brother-in-law . . . to Plaintiff as early as 2022. That the issues that she raised was that [Plaintiff's brother-in-law] was visiting the minor child at school during her before and after school care program.

21. That in October 2022 before and after school care providers contacted the Defendant (mom) regarding these frequent visits and their concerns after their communication with Plaintiff (dad) rendered no results.

22. That by Our Family Wizard message on 10/11/2022[,] Defendant mom informed Plaintiff about her concerns related to [Plaintiff's brother-in-law's] frequent visits to the minor child's school and Plaintiff did not respond. Defendant also sent a text and email.

23. That on about May 15th, 2024, Defendant (mom) informed Plaintiff (dad) that she learned that the brother-in-law was charged with a sex offense crime in Franklin County. That dad did not respond via Our Family Wizard and the court finds credible that he did call, and his response was "that if convicted, he will handle it then."

24. That Defendant (mom)'s concerns regarding the minor child are credible. However, Plaintiff disregarded Defendant (mom)'s legitimate concerns regarding the minor child's welfare and her safety.

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25. That [Plaintiff's brother-in-law] was removed from the pickup list for the before and after school care program by the school administrators.

26. That the paternal grandmother . . . would assist with the care of the minor child as well as court-ordered custodial exchanges.

27. That there are times where the Defendant's son and her fiancé assist[] with the court-ordered custodial exchanges.

28. That the parties have had and continue to have issues with custodial exchanges.

29. The current order requires the exchanges to occur at the former Barnes and Noble Plaintiff has purchased a home and moved to Zebulon since the prior order was entered.

30. That the exchange location is no longer convenient to the parties, as the Court entered a civil contempt order in this case before the Plaintiff moved to Zebulon due to the Plaintiff consistently reporting substantially late for custodial exchanges.

31. That Defendant enrolled the minor child in summer camp, and this was reasonable, based on the tardiness and location issues the parties were having with custodial exchanges.

32. That Defendant enrolled the minor child in gymnastics and girl scouts. Although she did not inform Plaintiff about enrolling the minor child in gymnastics prior to such enrollment, she did inform Plaintiff about her intention to enroll the minor child in girl scouts prior to such enrollment.

33. That Dad has not taken the minor child to either of the child's activities, which is girl scouts or gymnastics, during his custodial time.

34. That even though mom offered to take the minor child

during his custodial time to gymnastics/ girl scouts, Plaintiff did not allow the minor child to participate.

35. That Plaintiff (dad)'s testimony that the activities were intrusive or impacting his custodial time was not significant, since under the current court order, Defendant would only have had to take the minor child to these activities during his custodial time approximately one or two times per month.

That it was not unreasonable for Defendant to request Plaintiff to have the minor child in attendance at her activities and for Plaintiff to have taken the child to such activities during his custodial time

36. Plaintiff (dad) refused to take the minor child to the activities.

37. That Defendant (mom) pays for all the extracurricular activities for the minor child and is the one who takes the minor child to all her extracurricular activities.

38. That Defendant (mom) has been the one paying for summer camp.

39. That Defendant (mom) has taken a parenting class (the Triple P parenting class), as well as parenting skills class with the North American Learning Institute for 12 hours.

40. That since the entry of this court's order, Plaintiff has been convicted of driving while impaired.

Without specifically stating, Plaintiff appears to challenge findings of fact nos.

17–19. In doing so, Plaintiff claims “Exhibit D-8 established the overtime-free schedule” and “no present-tense contrary evidence exists.” Plaintiff asserts that “[f]indings to the contrary rely on speculations and historical documents, not substantial evidence.” We disagree.

Plaintiff's contention is contradicted by Defendant's testimony, as well as Plaintiff's own testimony and exhibit. At the hearing, testimony showed that Plaintiff's mother had confirmed Plaintiff worked overtime:

Q. Now, are you aware that your son's been working a lot of overtime during -- since the Courts enter of the custody order in March of 2022?

A. I can say I know he's worked overtime. I don't know if it's been an abundance. And I'll -- and I'll stick to that.

....

Q. . . . Are you aware of how much your son worked since entry of the Court's custody order?

A. I can't say yes because I can't confirm, but do I know he's worked overtime? Yes. How much overtime? I cannot answer that because I do not know that.

....

Q. Okay. During the period of time, he was working a lot of overtime hours, is that the period of time that you were helping him with childcare?

A. Yes.

Q. And you're not currently providing childcare for her? Is that -- did that end, approximately, October of 2024 that you stopped needing to provide childcare to the same extent?

A. (Inaudible.)

Q. And is it your understanding that was because you no longer had to work the same overtime hours?

A. Yeah.

Defendant also testified Plaintiff had been working overtime:

I don't get any additional financial support from [Plaintiff]. But [Plaintiff] is working all of this overtime, all of these long hours. He's getting the money for it, there's just no support for it. Like, what is she doing? Like, she's – she's – you're working all these hours. So where is [the minor child] at and what is [she] doing, she got gymnastics, why can't she go? She's a kid that like -- that enjoys these activities.

Q. When you say working overtime and getting money, did the Court compel that [Plaintiff] provide bank statements to you?

A. Yes.

Q. And were those bank statements provided?

A. Yes, they were.

Q. And in reviewing those bank statements, did you have some concerns with what you saw on the bank statements?

A. Yes, I did.

Q. What did you see on the bank statements?

A. [Plaintiff] has -- not only does [Plaintiff] gets his salary from his job and his overtime, but [Plaintiff] also receives V.A. benefits at almost 2 thousand dollars a month. And [Plaintiff] ha[s] large amount – amounts of A.T.M. deposits.

Plaintiff testified that he was previously required to work overtime, but he had since obtained a new position with no overtime available:

Q. And how did that impact you?

A. It impacted me because I was not able to have my schedule look correctly where I had to set up work and spend majority of the time with my kids. They had a mandate that had to be covered. And unfortunately, I had

to cover them, which is mandatory overtime.

....

Q. Is that a different position than the one you worked?

A. Correct. Before I was a senior officer specialist, and I went to time and attendance clerk with the hours of 8 to 4. Monday to Friday, holidays off, I don't get overtime.

Here, Plaintiff's testimony is inconsistent regarding overtime hours worked. Although Plaintiff testified that his position changed on 8 January 2024, he testified to working overtime on 16 July 2024. Furthermore, Plaintiff's copy of his work schedule filed with this Court shows he had worked overtime as recently as 20 February 2025. The trial court reviewed Plaintiff's work schedule exhibit and stated:

THE COURT: -- military time don't work well together. Then, I see 2/19, where it says O.T. again. I'm not sure what that means. Then, I'm looking at 2/11 overtime, 2/10 overtime, 1/31 overtime, 1/28 overtime.

And your question was, what is O.T.? He said it was overtime, 1/27 overtime, 1/23 overtime, 1/22 overtime. 1/20 overdue 2025. 1/19, yeah, 01/19/2025 overtime. 01/14/2025 overtime, 01/13/2025.

I don't know it's -- it's you -- you asked the question. I'm going off of the exhibit that was introduced. The question was, what does O.T. stand for? He said overtime. He said I don't do overtime anymore.

And clearly, in the exhibit that you introduced, there's overtime on here consistently, 01/05/2025 overtime. I mean, it's your exhibit and it's your client's testimony. His testimony, he hasn't done overtime since 2023.

Even assuming that he meant 2024, there's still overtime on here since 2020 -- in 2024. July 17, 2024,

there's overtime. July 6 – I'm sorry July 16, July 14. So the -- the testimony that he hasn't done overtime is not true. It's not accurate. I'll put it that way.

I mean, and it's consistent throughout this schedule that you introduced this evidence as I continue to flip through this schedule. I mean, month after month after month, there is overtime except when he was not working because of his -- so there was leave without pay.

The trial court found Plaintiff's assertions regarding his overtime were not credible, and this Court does not reweigh such evidence. *See Walsh*, 263 N.C. App. at 588, 824 S.E.2d at 134 ("We review an order for modification of custody to determine if the findings of fact are supported by substantial evidence and if the conclusions of law are supported by the findings; the trial court determines the credibility and weight of the evidence."). As the trial court is better positioned to make such credibility determinations, it properly considered the testimony and Plaintiff's exhibit. *See Shipman*, 357 N.C. at 474–75, 586 S.E.2d at 253–54 ("Our trial courts are vested with broad discretion in child custody matters. This discretion is based upon the trial courts' opportunity to see the parties; to hear the witnesses; and to detect tenors, tones, and flavors that are lost in the bare printed record read months later by appellate judges. Accordingly, should we conclude that there is substantial evidence in the record to support the trial court's findings of fact, such findings are conclusive on appeal, even if record evidence might sustain findings to the contrary." (cleaned up)). Accordingly, testimony from all witnesses and the

exhibit introduced by Plaintiff himself amount to substantial evidence in the record to support findings of fact nos. 17–19.

As Plaintiff does not challenge the remaining findings, the findings are binding on appeal. *See Klein v. Klein*, 290 N.C. App. 570, 577, 892 S.E.2d 894, 903 (2023) (“[U]nchallenged findings of fact are presumed to be supported by competent evidence and are binding on appeal.” (citation omitted)).

b. Change in Circumstances

Plaintiff contends the trial court did not assess current conditions but instead “conflated ordinary logistics with a welfare detriment.” Plaintiff argues custody was modified for convenience and scheduling preferences. We disagree.

“A substantial change in circumstance can be supported by either allegations that the current custody situation has an adverse effect on the child or by ‘showing a change in circumstance . . . is, or is likely to be, beneficial to the child.’” *Durbin v. Durbin*, 388 N.C. 55, 61, 918 S.E.2d 832, 837 (2025) (citation omitted). “Before a child custody order may be modified, the evidence must demonstrate a connection between the substantial change in circumstances and the welfare of the child, and flowing from that prerequisite is the requirement that the trial court make findings of fact regarding that connection.” *Shipman*, 357 N.C. at 478, 586 S.E.2d at 255 (citation modified). “Unless the effect of the change on the children is ‘self-evident,’ the trial court must find sufficient evidence of a nexus between the change in circumstances and the welfare of the children.” *Stephens v. Stephens*, 213 N.C. App. 495, 499, 715

S.E.2d 168, 172 (2011) (quoting *Shipman*, 357 N.C. at 478, 586 S.E.2d at 255–56). “The trial court’s conclusions of law receive *de novo* review.” *Id.* at 498, 715 S.E.2d at 171.

Here, the trial court found there is “a substantial change in circumstances affecting the health and general welfare of the minor child.” The trial court found this case to be high conflict in nature, as evidenced by the parties’ inability to communicate and Plaintiff’s refusal to take the minor child to extracurricular and recreational activities.

Plaintiff was previously found to be in civil contempt of court for violating the 11 March 2022 permanent custody order. Plaintiff’s violation dealt with the exchanges of custody of the minor child as Plaintiff had “been late on multiple occasions.” Here, the trial court found that “Plaintiff did not offer any evidence regarding the show causes” to show why he should not be held in contempt of the permanent custody order. As Plaintiff failed to “offer any evidence regarding the show causes,” the trial court took “the information in the show causes as true.”

The trial court noted that the minor child was three years old at the time of the permanent custody order but, at the time of the hearing, was eight years old and participated in extracurricular activities, including gymnastics and Girl Scouts. The trial court provided that the minor child’s circumstances changed from the time of the permanent custody order, but there remained a “consistent issue regarding pick

up and drop offs.” Further, the trial court noted Plaintiff “refused to take the minor child to the activities.”

Here, we hold substantial change in circumstances resulted from Plaintiff’s noncompliance with the prior permanent custody order, the parties’ lack of communication, and the high conflict nature of this case. *See, e.g., Savani v. Savani*, 102 N.C. App. 496, 505, 403 S.E.2d 900, 906 (1991) (holding repeated noncompliance with a prior child custody order regarding visitation and communication demonstrated substantially changed circumstances affecting the welfare of the child).

Plaintiff argues custody was changed for convenience and scheduling preferences with no “child-centered change” or “child-welfare change” being found. To be sure, the trial court must “make findings demonstrating a nexus ‘between the substantial change in circumstances and the welfare of the child.’ ” *Durbin*, 388 N.C. at 61, 918 S.E.2d at 837–38 (citation omitted). Contrary to Plaintiff’s assertions, however, the trial court found these issues surrounding the minor child’s ability to participate in extracurriculars “are affecting the minor child’s health and general welfare.” Moreover, in response to finding that Plaintiff continues to work overtime during his custodial time, the trial court found that it “is unsure exactly where the minor child is or who cares for the minor child.” Finally, the trial court found that “legitimate concerns regarding the minor child’s welfare and her safety” were being disregarded by Plaintiff in connection to finding Plaintiff’s lack of response to his brother-in-law’s frequent visits with the minor child. Accordingly, the trial court’s

findings demonstrate a “nexus ‘between the substantial change in circumstances and the welfare of the child.’” *Durbin*, 388 N.C. at 61, 918 S.E.2d at 837–38 (citation omitted). Plaintiff’s argument is therefore overruled for lack of merit.

c. Best Interest of the Child

This Court next considers whether a change in custody is in the best interest of the child. We “review the trial court’s determination of the motion to modify custody for abuse of discretion.” *Walsh*, 263 N.C. App. at 587, 824 S.E.2d at 133.

“As long as there is competent evidence to support the trial court’s findings, its determination as to the child’s best interests cannot be upset absent a manifest abuse of discretion.” *West v. Marko*, 141 N.C. App. 688, 691, 541 S.E.2d 226, 229 (2001). “Under an abuse of discretion standard, we must ‘determine whether a decision is manifestly unsupported by reason, or so arbitrary that it could not have been the result of a reasoned decision.’” *Stephens*, 213 N.C. App. at 503, 715 S.E.2d at 174 (citation omitted).

In this case, the trial court concluded that its “order is appropriate under the circumstances, and the best interests of the minor child shall be served by the provisions set forth in this order.” The evidence and findings show that the trial court considered the minor child’s “health and general welfare,” by noting its concerns of Plaintiff’s refusal to allow the minor child to participate in extracurriculars and by Plaintiff failing to address his brother-in-law’s frequent visits with the minor child. In consideration of the minor child, the trial court ordered for physical custody to be

modified, for custodial exchanges to take place at the minor child's daycare or school, and for the parties to ensure the transportation of the minor child to her extracurriculars. Accordingly, the trial court did not abuse its discretion since it was not "manifestly unsupported by reason, or so arbitrary that it could not have been the result of a reasoned decision." *Id.* (citation modified).

2. Evidentiary Error

Plaintiff also asserts that the trial court "relied on an uncertified, unauthenticated transcript as substantive proof." We disagree.

"We review *de novo* rulings on authentication issues under Rule of Evidence 901." *State v. Davenport*, 297 N.C. App. 605, 610, 910 S.E.2d 750, 754 (2025) (citation omitted). "The mere admission by the trial court of incompetent evidence over proper objection does not require reversal on appeal." *In re Huff*, 140 N.C. App. 288, 301, 536 S.E.2d 838, 846 (2000). Even if incompetent evidence is admitted, "there yet applies in non-jury cases a presumption that the judgment appealed from was based solely upon other evidence which was competent and correctly admitted." *Harrell v. W. B. Lloyd Constr. Co.*, 300 N.C. 353, 357, 266 S.E.2d 626, 629–30 (1980). "Only where the record on appeal affirmatively discloses that the challenged ruling by the trial court was based upon or influenced by erroneously admitted evidence will there be a finding of reversible error." *Id.* at 357, 266 S.E.2d at 630.

The record does not contain this alleged uncertified transcript. The record tends to show that Defendant called Plaintiff's mother to the stand. On direct

examination, Plaintiff's mother reviewed "Exhibit 16," two pages of a transcript from Plaintiff's mother's prior testimony from a December 2024 hearing. Before Defendant moved to introduce the exhibit into evidence, Plaintiff objected on the grounds that it was not "a notarized certified copy of a transcript in this file." After Defendant moved the exhibit into evidence, Plaintiff renewed the objection, to which the trial court responded: "Well, I'll -- so here's what I'll do. The part that Ms. Hawkins has said that she identifies as her testimony, I will allow that in." Later during the mother's testimony, Defendant moved to introduce "Exhibit 16, pages 29 and 30." Defendant's counsel explained: "Your Honor indicated that you'll allow entry of what she recognized as her testimony. And it's behind tab 16, just 29 and 30." The trial court responded: "Those -- those pages alone will be admitted because she did acknowledge page 29 was her testimony." Indeed, the witness acknowledged the pages of the transcript were her testimony.

During the hearing, Plaintiff objected to the exhibit's lack of notarization. A transcript without the proper certification would not allow it to be self-authenticating. *See* N.C. Gen. Stat. § 8C-1, Rule 902(8) (2025) ("Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following: . . . Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments."). Although the trial court disagreed, and even

assuming Plaintiff was correct, there would be no error since Plaintiff's mother confirmed on the stand that the statements in the transcript were hers.

Under the Rules of Evidence, “[t]he requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.” N.C. Gen. Stat. § 8C-1, Rule 901(a) (2025). Examples of authentication includes “testimony that a matter is what it is claimed to be.” N.C. Gen. Stat. § 8C-1, Rule 901(b)(1) (2025) (citation modified). Here, the witness acknowledged and adopted the statements in the transcript. *See Davenport*, 297 N.C. App. at 611, 910 S.E.2d at 754 (“It is not error for the trial court to admit the evidence if it could reasonably determine that there was sufficient evidence to support a finding that ‘the matter in question is what its proponent claims.’” (cleaned up)).

Even if the transcript was incompetent and its admissibility was error, Plaintiff makes this assertion with no supporting argument as to what substantive evidence the court relied on from the exhibit. *See In re Huff*, 140 N.C. App. at 301, 536 S.E.2d at 846 (“In the context of a bench trial, an appellant ‘must show that the court relied on the incompetent evidence in making its findings.’” (citation omitted)).

Here, the trial court did not include findings from the challenged exhibit, and Plaintiff failed to rebut the presumption that the trial court ignored such evidence. *See Woncik v. Woncik*, 82 N.C. App. 244, 249, 346 S.E.2d 277, 280 (1986) (“A trial judge sitting without a jury is presumed to have considered only the competent,

admissible evidence and to have disregarded any inadmissible evidence that may have been admitted.” (citation modified)); *see also State v. Jones*, 260 N.C. App. 104, 109, 816 S.E.2d 921, 925 (2018) (“But in a bench trial, we presume the trial court ignored any inadmissible evidence unless the defendant can show otherwise.”). Accordingly, Plaintiff’s alleged evidentiary error is dismissed.

Plaintiff next asserts that “[e]motionally charged testimony about Appellee’s childhood abuse [was] irrelevant to Appellant’s parental fitness [and] was admitted and then used atmospherically to craft restrictive exchange conditions[.]”

During the hearing, Defendant was asked: “Did you hear the mother’s testimony regarding her not having an issue with [the minor child] being in the brother-in-law’s company?” Defendant responded, in part, as follows: “I’ve been molested at 10. As a mother, it disgusts me that you don’t -- you don’t have a problem with a man being around your grandchild or as a father. You don’t want to protect your child, and you don’t want -- you want this child.” Defendant once more mentioned her personal experience again: “I never -- when that happened to me at 10 years old, I didn’t tell nobody. I didn’t tell nobody because I was scared. So I’m being proactive as a mother, and I don’t want nothing like that happening to my child.”

Plaintiff did not object to this testimony. Assuming *arguendo* this testimony was incompetent, Plaintiff has failed to rebut the presumption that the trial court ignored such evidence. *See Woncik*, 82 N.C. App. at 249, 346 S.E.2d at 280 (“A trial judge sitting without a jury is presumed to have considered only the competent,

admissible evidence and to have disregarded any inadmissible evidence that may have been admitted.” (citation modified)). Plaintiff provides no argument connecting Defendant’s passing remark of her prior experience to the trial court’s formation of the modified custody exchange provision. *See Kabasan v. Kabasan*, 257 N.C. App. 436, 443, 810 S.E.2d 691, 697 (2018) (“It is not the role of the appellate courts . . . to create an appeal for an appellant. It is likewise not the duty of the appellate courts to supplement an appellant’s brief with legal authority or arguments not contained therein.” (cleaned up)). Accordingly, Plaintiff’s argument is dismissed.

3. Constitutional Violations

Plaintiff next argues that the trial court erred by holding the contempt hearing and the custody hearing without clear notice. Specifically, Plaintiff contends the trial court “merged pending contempt into the custody hearing without clear notice, blurring burdens and quasi-criminal safeguards. Trying contempt without adequate notice violates due process.” Again, we disagree.

Defendant filed a motion to modify custody on 10 October 2023. On 19 March 2025, the trial court held a hearing for Defendant’s motions to modify custody and show cause for civil contempt, not criminal contempt. The record is clear that Plaintiff did not object and litigated all matters during the hearing. *Cf. Jackson v. Jackson*, 192 N.C. App. 455, 463, 665 S.E.2d 545, 551 (2008) (“The record gives no indication either party understood or reasonably should have understood the evidence presented or the arguments made to be grounds for the modification of

custody made by the trial court when it entered its Contempt Order.”). The record demonstrates that both parties were prepared for all issues to be heard on 19 March 2025. Accordingly, any alleged lack of notice is considered waived. *See Browne v. Browne*, 101 N.C. App. 617, 624, 400 S.E.2d 736, 740–41 (1991) (“However, when the case was called for trial, both parties introduced evidence on these relevant issues without objection and the trial court heard the evidence. Therefore, any failure by this defendant to give proper notice of his request that a hearing be conducted was waived.”). Further, because Plaintiff did not object to the trial court hearing the matters of contempt and custody, he has waived such issue on appeal. *See In re J.N.*, 381 N.C. 131, 133, 871 S.E.2d 495 (2022) (holding that unpreserved constitutional arguments are waived on appeal). Accordingly, we dismiss this argument.

Next, Plaintiff contends the trial court constitutionally erred by being biased. Specifically, Plaintiff argues that “[r]emarks signaling indifference to Appellant’s parenting time, combined with selective crediting of Appellee’s narrative and discounting of Appellant’s un rebutted evidence, undermine the appearance of neutrality.”

We note that Plaintiff does not elaborate any further regarding this argument or whether he preserved this argument. *See* N.C. R. App. P. 10(a)(1) (“In order to preserve an issue for appellate review, a party must have presented to the trial court a timely request, objection, or motion, stating the specific grounds for the ruling the party desired the court to make if the specific grounds were not apparent from the

context.”); *see also Anderson v. Assimios*, 356 N.C. 415, 416, 572 S.E.2d 101, 102 (2002) (“A constitutional issue not raised at trial will generally not be considered for the first time on appeal.”). Indeed, issues regarding a trial court’s bias or prejudice must be preserved by moving for the recusal of the trial judge. *See Sood v. Sood*, 222 N.C. App. 807, 812, 732 S.E.2d 603, 608 (2012) (“When a party does not move for a judge’s recusal at trial, the issue is not preserved for our review.”). Additionally, Plaintiff’s argument merely illustrates the trial court performing its function during a bench trial. *See Cox v. Cox*, 238 N.C. App. 22, 34, 768 S.E.2d 308, 316 (2014) (“This is not the sort of ‘judicial bias’ that is prohibited by law; in fact, trial judges are required to rule on evidentiary issues, to assess the credibility of witnesses, and to make rulings which will, in most cases, be adverse to one party or the other. The type of judicial bias which is considered to be improper is bias based upon the judge’s ‘personal bias or prejudice concerning a party.’ ”).

As Plaintiff did not elaborate further and there is no evidence of preservation, Plaintiff has failed to preserve his argument. *See Sood*, 222 N.C. App. at 812, 732 S.E.2d at 608 (“Where appellant failed to move that the trial judge recuse himself, he cannot later raise on appeal the judge’s alleged bias based on an undesired outcome.”); *see also Cox*, 238 N.C. App. at 35, 768 S.E.2d at 317 (holding that unpreserved arguments of judicial bias are waived on appeal). Further, Plaintiff makes no allegations of the trial judge having any personal bias or prejudice, rather, only that

the trial judge conducted a bench trial. *See Cox*, 238 N.C. App. at 34, 768 S.E.2d at 316. Accordingly, Plaintiff's argument is dismissed.

4. *Remaining Contentions*

All other contentions proffered by Plaintiff are dismissed as abandoned due to a lack of argumentation and citation to authority. *See* 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.").

III. Conclusion

We affirm the trial court's order modifying child custody of the parties involved.

AFFIRMED.

Chief Judge DILLON and Judge ARROWOOD concur.

Report per Rule 30(e).