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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-188

Filed 18 November 2026

Mecklenburg County, No. 25CV602177-590

DORION ANDERSON, Plaintiff,

v.

KYERA MCLAURIN, Defendant.

Appeal by defendant from order entered 18 December 2025 by Judge Cecilia Oseguera in Mecklenburg County District Court. Heard in the Court of Appeals 16 September 2026.

Epperson Law Group, PLLC, by Susan Yanagi, no brief filed for plaintiff-appellee.

Kyera McLaurin, pro se, defendant-appellant.

DILLON, Chief Judge.

Defendant, Kyera McLaurin, appeals the final judgment entered dismissing Defendant's Rule 60(b) motion for failure to prosecute. Defendant argues the trial court erred in numerous ways. For the foregoing reasons, we conclude the trial court did not err and thus affirm the order dismissing Defendant's Rule 60(b) motion.

I. Background

On 5 September 2025, Plaintiff filed a complaint for a Domestic Violence Protective Order (DVPO) against Defendant. However, three days later, on 8 September 2025, the trial court entered an order denying the *ex parte* DVPO and scheduled a hearing for 22 September 2025.

The hearing was first continued to 6 October 2025 and then to 20 October 2025, both times due to Plaintiff's failure to effect service on Defendant. The record reflects service was attempted by Plaintiff on 8 October 2025 and 9 October 2025 at an address in Gwinnett County, Georgia, but Defendant did not reside at this address. Service was also attempted on 11 October 2025 at an address in DeKalb County, Georgia, but Defendant did not reside at this address either. Plaintiff then proceeded with service by publication and published the notice in the Gwinnett Daily Post Newspaper once a week for three consecutive weeks. Plaintiff then filed an Affidavit of Due Diligence, and the trial court entered a DVPO against Defendant.

Defendant filed a motion for relief pursuant to Rule 60(b) and a motion to continue. However, Defendant did not appear in court. The trial court concluded good cause did not exist to grant the continuance and entered an order denying Defendant's Rule 60(b) motion. Defendant appeals.

II. Standard of Review

The standard of review of a trial court's denial of relief pursuant to Rule 60(b) is abuse of discretion. *Harris v. Harris*, 307 N.C. 684, 687 (1983) (citation omitted). A trial court abuses its discretion when "a trial judge acts under a misapprehension

of the law." *State v. Lail*, 388 N.C. 431, 433 (2025) (citation omitted).

Our General Statutes allow a court to "relieve a party . . . from a final judgment, order, or proceeding" where "[t]he judgment is void." N.C.G.S. § 1A-1, Rule 60(b)(4) (2025). A judgment is void where the court lacks personal jurisdiction over the defendant. *See Hill v. Hill*, 11 N.C. App. 1, 10 (1971).

Personal jurisdiction over a defendant may only be obtained in two ways: (1) "the issuance of summons and service of process by one of the statutorily specified methods[,]" *Fender v. Deaton*, 130 N.C. App. 657, 659 (1998) (citations omitted); or, (2) the defendant's voluntary appearance or consent to the court's jurisdiction. *Grimsley v. Nelson*, 342 N.C. 542, 545 (1996) (citations omitted). "[W]ithout such jurisdiction, a judgment against [a] defendant is void." *Freeman v. Freeman*, 155 N.C. App. 603, 606–07 (2002) (citations omitted).

III. Analysis

Defendant raises three issues on appeal, but the first two raise the same issue, so we have consolidated this case into two issues. We address each in turn.

A. Service

Defendant first argues the trial court erred in concluding Plaintiff effectively established proper service, where the record demonstrates Defendant was not served and did not reside at the addresses used for service attempts. Next, Defendant argues service by publication was improper where Plaintiff failed to exercise reasonable diligence as is required under Rule 4 of the North Carolina Rules of Civil Procedure.

In sum, these two arguments present the same issue of whether service was properly effected or not.

Rule 4 of the North Carolina Rules of Civil Procedure provides the methods of service of a summons and complaint to obtain personal jurisdiction on a defendant. Specifically, Rule 4(j1) of the North Carolina Rules of Civil Procedure provides for service of process by publication:

> (j1) Service by publication on party that cannot otherwise be served. – A party that cannot with due diligence be served by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) may be served by publication. Except in actions involving jurisdiction in rem or quasi in rem as provided in section (k), service of process by publication shall consist of publishing a notice of service of process by publication once a week for three successive weeks in a newspaper that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and circulated in the area where the party to be served is believed by the serving party to be located, or if there is no reliable information concerning the location of the party then in a newspaper circulated in the county where the action is pending. If the party's post-office address is known or can with reasonable diligence be ascertained, there shall be mailed to the party at or immediately prior to the first publication a copy of the notice of service of process by publication. The mailing may be omitted if the post-office address cannot be ascertained with reasonable diligence. Upon completion of such service there shall be filed with the court an affidavit showing the publication and mailing in accordance with the requirements of G.S. 1-75.10(a)(2), the circumstances warranting the use of service by publication, and information, if any, regarding the location of the party served.

N.C.G.S. § 1A-1, Rule 4.

Defendant contends Plaintiff failed to exercise the "due diligence" required by Rule 4(j1) prior to servicing Defendant by publication. We disagree.

"Due diligence dictates that plaintiff use all resources reasonably available to her in attempting to locate defendants. Where the information required for proper service of process is within plaintiff's knowledge or, with due diligence, can be ascertained, service of process by publication is not proper." *Jones v. Wallis*, 211 N.C. App. 353, 357 (2011) (citations omitted). This Court has held there is no "restrictive mandatory checklist for what constitutes due diligence for purposes of [service of process by publication]"; "[r]ather, a case[-]by[-]case analysis is more appropriate." *Emanuel v. Fellows*, 47 N.C. App. 340, 347 (1980).

In determining whether Plaintiff acted with "due diligence," we look to the steps actually undertaken by Plaintiff to ascertain the address of Defendant. These steps included: (1) attempted service of Defendant in Gwinnett County, Georgia; (2) attempted service of Defendant in DeKalb County, Georgia; (3) researching on people search websites; (4) consulting the Georgia State Voter's Registration site; (5) a portal search with the North Carolina court system; (6) communicating and consulting with law enforcement in in DeKalb County, Georgia; and, (7) hiring a private process server to locate Defendant.

We hold that under the case-by-case approach set forth in *Emanuel*, Defendant's actions constituted "due diligence" justifying the use of service by publication.

B. Personal Jurisdiction

Defendant lastly argues the trial court erred in denying Defendant's Rule 60(b) motion where the underlying DVPO is void for lack of personal jurisdiction.

As mentioned above, "[a] defect in service of process by publication is jurisdictional, rendering any judgment or order obtained thereby void." *Wallis*, 211 N.C. App. at 356 (2011) (citations omitted).

However, as we established above, there was no defect in service of process by publication. Therefore, the trial court acquired personal jurisdiction over Defendant.

IV. Conclusion

We conclude the trial court did not err in dismissing Defendant's Rule 60(b) motion and affirm the trial court's order.

AFFIRMED.

Judges TYSON and ARROWOOD concur.

Report per Rule 30(e).