

**POST-DOGWOOD DECISIONS ADDRESSING
NON-JURISDICTIONAL RULES VIOLATIONS**

Case	Nature of the Violation	Result
<i>State v. Watlington</i> , No. 13-661, ___ N.C. App. ___, 759 S.E.2d 116, 2014 N.C. App. LEXIS 677 (2014)	Plaintiff failed to file a timely brief. Defendant sought to have the late brief stricken.	The Court denied the motion to strike and reviewed the appeal on the merits. The Court warned counsel that if such behavior continued, he would be sanctioned.
<i>State v. Foushee</i> , No. 13-846, 2014 N.C. App. LEXIS 494 (N.C. Ct. App. May 20, 2014) (unpublished)	The pages in the record on appeal and attachments were not individually numbered, the Defendant’s social security number was not redacted from the documents, the transcript was not electronically filed, and the Plaintiff’s brief failed to comply with N.C. R. App. P. 28(a) in that it failed to “define clearly the issues presented to the reviewing court.”	The Court reviewed the merits of the appeal, but “admonished” Plaintiff to comply with the Rules in the future.
<i>Etheridge v. Levitsky</i> , No. 13-350, 2014 N.C. App. LEXIS 74 (N.C. Ct. App. Jan. 14, 2014) (unpublished)	Plaintiff did not appeal from the order in a timely manner; Plaintiff failed to file documentation indicating that she had contracted with the court reporter for the delivery of the transcript with the Clerk of Superior Court or serve that documentation on counsel for Defendant in a timely manner; and Plaintiff failed to serve a proposed record on appeal in a timely manner.	The Court treated the record and briefs as a request for the issuance of writ of certiorari and granted the requested writ for the purpose of addressing the merits of the appeal.
<i>Hill v. Hill</i> , No. 12-1155, ___ N.C. App. ___, 748 S.E.2d 352, 2013 N.C. App. LEXIS 964 (2013)	Appellant’s brief contained inaccurate references to the transcript and record. Additionally, the transcript indicates the parties submitted more than 70 exhibits to the trial court, yet none were submitted to the Court of Appeals.	The Court reviewed the merits of the appeal but noted that these violations came close to warranting dismissal.
<i>Barrett v. SSC Charlotte Operating Co.</i> , No. 12-1271, 2013 N.C. App. LEXIS 687 (N.C. Ct. App. July 2, 2013) (unpublished)	Plaintiffs failed to request judicial settlement of the record on appeal in a timely manner and failed to obtain the entry of an order settling the record on appeal in a timely manner.	The Court reached the merits of the appeal.
<i>In re Radisi</i> , No. 13-74, 2013 N.C. App. LEXIS 601 (N.C. Ct. App. June 4, 2013) (unpublished)	<i>Pro se</i> Plaintiff failed to serve opposing party with a copy of the proposed record on appeal, failed to include necessary materials in the record on appeal, and failed to serve the opposing party with a copy of their brief.	The Court dismissed the appeal.

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<i>Fia Card Servs., N.A. v. Ashworth</i> , No. 12-958, 2013 N.C. App. LEXIS 453 (N.C. Ct. App. May 7, 2013) (unpublished)	Court noted the Plaintiff violated several non-jurisdictional rules without explaining precisely what the violations were.	The Court reviewed the merits of the appeal.
<i>N.C. State Bar v. Burford</i> , No. 12-909, 2013 N.C. App. LEXIS 263 (N.C. Ct. App. March 19, 2013) (unpublished)	There was no text under the subject headings in Appellant’s brief.	The Court concluded his arguments were abandoned on appeal.
<i>Leeuwenburg v. Harmon</i> , No. 12-629, 2012 N.C. App. LEXIS 1348 (N.C. Ct. App. Dec. 4, 2012) (unpublished)	Plaintiff failed to clearly define the issues presented and failed to present any arguments or authorities upon which Plaintiff relied. Plaintiff also failed to state any reason or argument in support of any of the issues presented and failed to provide the applicable standard of review for each issue.	The Court determined meaningful review was impossible and dismissed the appeal.
<i>Steele v. Safeco Ins. Co. of Am.</i> , No. 12-266, 2012 N.C. App. LEXIS 1274 (N.C. Ct. App. Nov. 20, 2012) (unpublished)	Plaintiff failed to follow proper procedure for settling the record.	The Court reviewed the merits of the appeal.
<i>MNC Holdings, LLC v. Town of Matthews</i> , No. 12-703, ___ N.C. App. ___, 735 S.E.2d 364, 2012 N.C. App. LEXIS 1313 (2012)	Defendant was not properly served with the Notice of Appeal. Plaintiff was served via email.	The Court held that the failure to properly serve the Notice of Appeal was non-jurisdictional and reviewed the merits of the appeal given that the parties had actual notice.
<i>Plomaritis v. Plomaritis</i> , No. 11-1554, ___ N.C. App. ___, 730 S.E.2d 784, 2012 N.C. App. LEXIS 935 (2012)	The brief did not contain correct citations to the record and transcript, the table of cases was not in alphabetical order, the summary of facts was argumentative, the brief contained “incorrect date style, lack[ed] an inside caption of the case, utilize[d] varying fonts and type point changes, [used] incorrect margins for the Index and for quotes within the brief, and exceed[ed] the number of pages or words in the brief without permission of this Court.”	The Court reviewed the merits of the appeal.

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<i>Trevarthen v. Treadwell</i> , No. 12-11, 2012 N.C. App. LEXIS 797 (N.C. Ct. App. July 3, 2012) (unpublished)	The brief included facts which were unsupported by the record and failed to set forth the standard of review. Among other violations of the Rules, the Court determined the attorney failed to spell check the brief, which resulted in 55 misspelled words including the trial court judge's name.	The Court dismissed the appeal.
<i>Harrington v. Brents</i> , No. 11-1170, 2012 N.C. App. LEXIS 466 (N.C. Ct. App. April 17, 2012) (unpublished)	The record did not contain complete or signed copies of the essential pleadings and documents or a transcript of the proceedings from which the appellant appealed. The brief lacked a complete statement of the procedural history of the case, a statement of the grounds for appellate review, a statement of the facts, references in the facts to supporting material in the record on appeal or exhibits, an argument for each issue presented, a statement of the standard of review, and references to any relevant citations of authority in the argument section.	The Court dismissed the appeal.
<i>Sartori v. Patterson</i> , No. 10-1514, 2011 N.C. App. LEXIS 1512 (N.C. Ct. App. July 19, 2011) (unpublished)	Plaintiff failed to include in the record a document he presented at trial. He also violated N.C. R. App. P. 28(b)(5) when he failed to include a full and complete statement of the facts. Additionally, the facts lacked any citations to the transcript or record on appeal.	The Court dismissed the appeal but stated first that it reviewed the appeal and found it meritless.
<i>Smith v. TD Ameritrade, Inc.</i> , No. 10-1221, 2011 N.C. App. LEXIS 978 (N.C. Ct. App. May 17, 2011) (unpublished)	Plaintiff failed to define clearly the issues presented required under N.C. R. App. P. 28(a), failed to state the grounds for appellate review, failed to include a standard of review, failed to cite to the record on appeal or any exhibits, and failed to cite any authorities upon which he relied.	The Court dismissed the appeal.
<i>Gentry v. Big Creek Underground Utils., Inc.</i> , 211 N.C. App. 641, 711 S.E.2d 462 (2011)	Defendant contended Plaintiff violated N.C. R. App. P. 26(g)(1) and (2) which require specific font size, formatting and an index, and N.C. R. App. P. 28(b)(4)-(7) which require a statement of grounds for appellate review, statement of the facts, and argument, and asked the Court to sanction Plaintiff.	The Court denied motion for sanctions and reached merits of the appeal.

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<i>Kennedy v. Polumbo</i> , 209 N.C. App. 394, 704 S.E.2d 916 (2011)	Plaintiff violated N.C. R. App. P. 28(b)(3)-(6) by failing to include: (1) a complete statement of the procedural history of the case; (2) a proper statement of the grounds for appellate review; (3) a complete statement of the facts; (4) references in the facts to supporting material in the record on appeal or exhibits; (5) an argument which contains contentions with respect to each issue presented; (6) a statement of the standard of review; and (7) references to any relevant citations of authority in the argument section.	The Court reviewed the merits of the appeal.
<i>Blackburn v. Carbone</i> , 208 N.C. App. 519, 703 S.E.2d 788 (2010)	Plaintiff failed to include the entire argument in the argument section of the brief, failed to include a standard of review, and failed to include a statement of the specific relief sought on appeal.	The Court reviewed the merits of the appeal.
<i>Honeycutt v. Honeycutt</i> , 208 N.C. App. 70, 701 S.E.2d 689 (2010)	The record on appeal did not include a signed order settling the record.	The Court reviewed the merits of the appeal.
<i>Joint Redevelopment Comm'n of Pasquotank v. Jackson-Heard</i> , No. 09-37, 2010 N.C. App. LEXIS 52 (N.C. Ct. App. Jan. 19, 2010) (unpublished)	Defendants failed to cite to the record on appeal, transcript or exhibits, failed to provide a statement of applicable standard of review for each question presented, and failed to comply with formatting requirements.	The Court reviewed the merits of the appeal.
<i>Walker v. Dep't of State Treasurer</i> , No. 09-1023, 2010 N.C. App. LEXIS 1845 (N.C. Ct. App. Sept. 21, 2010) (unpublished)	Petitioner failed to comply with N.C. R. App. P. 28(b)(6).	The Court reviewed the merits of the appeal.

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<p><i>Jacobs v. Kaba Ilco Corp.</i>, No. 09-1527, 2010 N.C. App. LEXIS 1472 (N.C. App. Ct. Aug. 3, 2010) (unpublished)</p>	<p><i>Pro se</i> Plaintiff's brief was 1 1/2 handwritten pages in which he conveyed his version of the facts. He failed to cite to the record or any exhibits to support the facts. The brief lacked any statement as to the standard of reviewed or a coherent argument. The entirety of the legal argument stated: "Therefore Since ALL reports from Employer to the Insurance Carrier and the North Carolina Industria[l] Commission is negligent and perjurous [sic] I am Seeking for All medical coverage, damages and compensation of All benefits."</p>	<p>The Court dismissed the appeal, after finding meaningful review impossible.</p>
<p><i>Mosteller v. Duke Energy Corp.</i>, 207 N.C. App. 1, 698 S.E.2d 424 (2010)</p>	<p>Plaintiff's statement of the facts failed to include page references to the record.</p>	<p>The Court reviewed the merits of the appeal, and the court "admonishe[d]" counsel to comply with rules in the future.</p>
<p><i>Brown & Brown Enters., LLC v. Brown</i>, No. 09-1665, 2010 N.C. App. LEXIS 1291 (N.C. Ct. App. July 20, 2010) (unpublished)</p>	<p>Defendants' assignments of error did not specifically reference the record. The assignments of error also failed to state any authority for their contentions. Each question presented was not separately stated. The defendants failed to cite any North Carolina law, case, constitutional provision, or statute to support their contention that the trial court erred.</p>	<p>The Court ordered <i>pro se</i> Defendants must pay double the printing costs.</p>
<p><i>Brooks Millwork Co. v. Levine</i>, No. 09-781, 2010 N.C. App. LEXIS 959 (N.C. Ct. App. June 15, 2010) (unpublished)</p>	<p>Plaintiff failed to file any transcript, failed to state sufficient legal bases for each legal error assigned, failed to conform to the requirements of N.C. R. App. P. 28(b)(1) and (2). Plaintiff violated Rule 9(a) and subsections (b)(5) and (b)(6) of Rule 28 by making several statements in its brief that lack any record support. Plaintiff violated Rule 28(b)(6) by failing to identify a standard of review in relation to the first argument enunciated in its brief. Plaintiff violated Rules 10(a) and 28(b)(6) by making several arguments that did not correspond with any assignment of error.</p>	<p>The Court ordered Plaintiff's attorney pay double the printing costs.</p>

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<i>Gore v. Southwest Airlines Co.</i> , No. 09-1300, 2010 N.C. App. LEXIS 853 (N.C. Ct. App. May 18, 2010) (unpublished)	Plaintiff failed to list any assignments of error in violation of Rule 10(c)(1), failed to comply with Rules 28(b)(1)-(6) by failing to present questions for review, procedural history, a statement of ground for appellate review, a full and complete statement of facts, and an argument for each question presented.	The Court could not effectively review the appeal and dismissed the appeal.
<i>Lawson v. Elec. Data Sys. Corp.</i> , No. 09-1106, 2010 N.C. App. LEXIS 846 (N.C. Ct. App. May 18, 2010) (unpublished)	<i>Pro se</i> plaintiff violated Rule 28(b) relating to the content of her brief and Rule 10(c) relating to the form of assignments of error.	The Court reviewed the merits of the appeal.
<i>Crowley v. Crowley</i> , 203 N.C. App. 299, 691 S.E.2d 727 (2010)	Plaintiff violated N.C. R. App. P. 10(c)(1) and 28(b)(4).	The Court reviewed the merits of the appeal.
<i>Davis v. Hospice & Palliative Care of Winston-Salem</i> , 202 N.C. App. 660, 692 S.E.2d 631 (2010)	Defendants failed to list assignments of error under N.C. R. App. P. 28(b)(6)	The Court reviewed the merits of the appeal.
<i>State v. Sullivan</i> , 201 N.C. App. 540, 687 S.E.2d 504 (2009)	<i>Pro se</i> defendant failed to comply with Rule 28(b)(5) and failed to present the standard of review or cite to specific assignment of errors.	The Court reviewed the merits of the appeal.
<i>Obo v. Steven B.</i> , 201 N.C. App. 532, 687 S.E.2d 496 (2009)	The Court did not specifically state what the violations were but stated that they were non-jurisdictional.	The Court reviewed the merits of the appeal.
<i>Hardin v. KCS Int'l, Inc.</i> , 199 N.C. App. 687, 682 S.E.2d 726 (2009)	Plaintiff filed the Record of Appeal late.	The Court reviewed the merits of the appeal but ordered Plaintiff to pay printing costs.
<i>Carolina Forest Ass'n v. White</i> , 198 N.C. App. 1, 678 S.E.2d 725 (2009)	Defendant failed to properly preserve their objections at trial and failed to serve the proposed record on appeal or settle, file, or serve the record on appeal. Additionally, Defendant's notice of appeal included argument in violation of Rule 3(d). Furthermore, Defendant's assignments of errors did not comply with Rule 10(c)(1).	The Court reviewed the merits of the appeal.

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<i>Lawson v. White</i> , No. 07-296-2, 2009 N.C. App. LEXIS 1059 (N.C. Ct. App. July 7, 2009) (unpublished)	The brief failed to state a sufficient summary of material facts and failed to provide any support for its meager fact statement.	Meaningful review was “impossible,” therefore, the Court dismissed the appeal.
<i>Tabor v. Kaufman</i> , 196 N.C. App. 745, 675 S.E.2d 701 (2009)	Plaintiff failed to include the grounds for appellate review as required by N.C. R. App. P. 28(b)(4) or procedural history of the case as required by N.C. R. App. P. 28(b)(3). Plaintiff also failed to cite the transcript or record in the fact statement, failed to include the assignment of error, failed to record page numbers where the assignment of errors appears, failed to number the pages of the brief, failed to include a cover page and failed to include the email address of the person signing the brief.	The Court ordered Plaintiff to pay double printing costs.
<i>State v. Castaneda</i> , 196 N.C. App. 109, 674 S.E.2d 707 (2009)	Defendant failed to comply with N.C. R. App. P. 28(b)(6) in that the assignments of error and argument did not correspond. He argued “plain error” in his assignments of error, but argued “prejudicial error” in his argument.	Although the Court considered this a gross and substantial violation, the Court reviewed the merits of the appeal under Rule 2.
<i>Jones v. Harrelson & Smith Contrs., LLC</i> , 194 N.C. App. 203, 670 S.E.2d 242 (2008)	Plaintiff violated Rule 10(c)(1) by failing to state the legal basis for its contentions the trial court erred and failing to include a citation to the record supporting each assignment of error.	The Court reviewed the merits of the appeal and ordered Plaintiff’s counsel to pay printing costs.
<i>Odell v. Legal Bucks, LLC</i> , 192 N.C. App. 298, 665 S.E.2d 767 (2008)	Plaintiff failed to comply with stylistic requirements of Rule 26(g)(1) and 28(b).	The Court reviewed the merits of the appeal.
<i>Copper v. Denlinger</i> , 193 N.C. App. 249, 667 S.E.2d 470 (2008)	Plaintiffs failed to timely file the record on appeal.	The Court reviewed the merits of the appeal and ordered Plaintiffs to pay the printing costs on appeal.
<i>Kitchin v. Halifax County</i> , 192 N.C. App. 559, 665 S.E.2d 760 (2008)	Plaintiffs’ assignments of error violated Rule 10(c).	The Court reviewed the merits of the appeal.
<i>Yorke v. Novant Health, Inc.</i> , 192 N.C. App. 340, 666 S.E.2d 127 (2008)	Plaintiffs failed to timely file the record on appeal.	The Court reviewed the merits of the appeal and ordered Plaintiffs to pay the printing costs of the appeal.

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<i>Shepard v. Bonita Vista Props., L.P.</i> , 191 N.C. App. 614, 664 S.E.2d 388 (2008)	Defendants violated 28(b) by failing to include required contents of brief.	The Court reviewed the merits of the appeal.
<i>State v. Monroe</i> , No. 08-570, 2008 N.C. App. LEXIS 2034 (N.C. Ct. App. Nov. 18, 2008) (unpublished)	Defendant failed to include a statement of the grounds for appellate review, included an improper standard of review, and failed to reference pages in the record at which Defendant’s assignments of error occurs.	The Court reviewed the merits of the appeal.
<i>Hannah v. Nationwide Mut. Fire Ins. Co.</i> , 190 N.C. App. 626, 660 S.E.2d 600 (2008)	Plaintiff failed to cite any authority in connection with his arguments, failed to include the standard of review, and used single-spaced the text of the brief.	The Court reviewed the merits of the appeal.
<i>State v. Bennett</i> , No. 07-1545, 2008 N.C. App. LEXIS 1450 (N.C. Ct. App. Aug. 5, 2008) (unpublished)	Defendant failed to cite authorities in violation of N.C. R. App. P 28(b)(6) and failed to include a table of authorities in violation of Rule 28(b)(1).	The Court reviewed the merits of the appeal and admonished Defendant’s counsel to exercise more diligence in his preparation of briefs.
<i>Gillis v. Montgomery County Sheriff’s Dep’t</i> , 191 N.C. App. 377, 663 S.E.2d 447 (2008)	Plaintiff failed to include a subject index as required by Rule 28(b)(1).	The Court reviewed the merits of the appeal.
<i>Clark v. United Emergency Servs.</i> , No. 07-592, 2008 N.C. App. LEXIS 660 (N.C. Ct. App. April 15, 2008) (unpublished)	Plaintiff failed to state legal basis for her assignment of error.	The Court reviewed the merits of the appeal.
<i>Azar v. Presbyterian Hosp.</i> , 191 N.C. App. 367, 663 S.E.2d 450 (2008)	Plaintiff failed to include a copy of the summons in the record in violation of Rule 9(a)(1)(c). Plaintiff failed to submit a transcript of the summary judgment hearing despite stating in the record that a r was submitted. The assignments of error cite incorrect pages in the record and some of the facts are not supported by citations to the record. Plaintiff’s brief did not include the standard of review in its own section.	The Court ordered Plaintiff’s attorney to pay “costs.”

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<p><i>Weeks v. Select Homes, Inc.</i>, 193 N.C. App. 725, 668 S.E.2d 638 (2008)</p>	<p>Plaintiffs' brief failed to reference any assignment of error, failed to include a statement of grounds for appellate review or a certification that the brief contained no more than 8,750 words, and failed to comply with formatting requirements.</p>	<p>The Court ordered Plaintiffs' attorney to pay double printing costs.</p>
<p><i>Luther v. Seawell</i>, 191 N.C. App. 139, 662 S.E.2d 1 (2008)</p>	<p>The Plaintiff included documents in the record that the parties had not agreed upon and documents that bore highlighting and handwritten commentary. Additionally, Plaintiff's brief failed to state the grounds for appellate review and included a highly argumentative statement of facts.</p>	<p>The Court ordered Plaintiff's attorney to pay double printing costs.</p>
<p><i>Selwyn Vill. Homeowners Ass'n v. Cline & Co.</i>, No. 07-116-2, 2008 N.C. App. LEXIS 1998 (N.C. Ct. App. Nov. 4, 2008) (unpublished)</p>	<p>Defendant failed to provide page references for any of the questions presented and failed to include procedural history. Additionally Defendant failed to use proper margins on the index, failed to single space issues in the body of the brief, and failed to properly format the index.</p>	<p>The Court reached the merits of the appeal and admonished Defendant's counsel to exercise more diligence in future appeals.</p>