

North Carolina Court of Appeals

Docket Sheet

City of Asheville v State of N. Carolina,

Case Number: 14-1255

As of: 04/26/2024

Case Closed: Yes **Close Date:** 10-26-2015 **Case Type:** Civil (Civil_othr) **Mediation:** No

CITY OF ASHEVILLE,
a municipal corporation,
Plaintiff,

V

STATE OF NORTH CAROLINA and
the METROPOLITAN SEWERAGE
DISTRICT OF BUNCOMBE COUNTY,
Defendants.

Docket Date: 11-20-2014	File Date: 11-20-2014	File Time: 12:54	Acquired Date: 11-20-2014
Bond Collected: No	Docket Fee: No	Pauper: No	Print Deposit: No
			State Appeals: Yes

History

Venue: Wake (10) **Heard In:** Superior Court
To SC: **From SC:**

Lower Court Number(s)

Location: Wake (10)
Judge: Howard E. Manning Jr.
Case #: 13CVS6691

Tracking/Argue

Argue Date: 06-03-2015 #

Opinion

Opinion Date: 10-06-2015 **Cert Date:** 10-26-2015
Author: Honorable Chris Dillon
Decision: Affirmed in Part, Reversed and Remanded in Part.
Opinion Notes:
Opinion Pages: 26 **Opinion Cost:** \$ 5.20
Cite:
Slip Opinion: <https://appellate.nccourts.org/opinions/?c=2&pdf=32975>

Documents

Document	Date Recvd	Cert of Service	Rec/Brl Due	Resp. Due	Resp. Recvd	Mailed Out	Ruling	Ruling Date
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(1) RECORD	11-20-2014	11-20-2014				11-21-2014		
(2) INFORM SHT	11-25-2014				12-08-2014			
(3) M-EXT-BR	12-11-2014	12-11-2014					Allowed	12-16-2014
(4) APPELLANT BRIEF	02-20-2015	02-20-2015						
(5) APPELLANT BRIEF	02-20-2015	02-20-2015						
(6) M-EXT-BR	03-06-2015	03-06-2015					Allowed	03-09-2015
(7) M-GEN	03-06-2015	03-06-2015					Allowed	03-10-2015
(8) M-AMICUS	04-24-2015	04-24-2015					Allowed	04-28-2015
(9) APPELLEE BRIEF	04-24-2015					04-27-2015		
(10) AMICUS	04-24-2015					04-27-2015		
(11) M-AMICUS	04-27-2015	04-24-2015					Other	04-28-2015
(12) AMICUS	05-01-2015	05-01-2015				05-08-2015		
(13) M-GEN	05-08-2015	05-05-2015					Allowed	10-06-2015
(14) REPLY	05-11-2015					05-12-2015		
(16) PWS	11-09-2015	11-09-2015					Dismissed as moot	11-10-2015
(17) PWS	11-09-2015	11-09-2015					Dismissed as moot	11-10-2015
(18) PET-REHEAR	11-09-2015						Denied	11-10-2015
(19) PET-REHEAR	11-09-2015						Denied	11-10-2015
(20) M-TEMP-STAY	11-09-2015	11-09-2015						
(21) M-TEMP-STAY	11-09-2015	11-09-2015						

1 - RECORD

Filed: 11-20-2014 @ 12:54:00

FOR: Defendant-Appellant State of North Carolina

BY : Mr. Gary R. Govert

N.C. DEPARTMENT OF JUSTICE

2 - AIS INFORM SHT

Filed: 11-25-2014 @ 12:56:12

FOR: Defendant-Appellant State of North Carolina

BY : Mr. Gary R. Govert

N.C. DEPARTMENT OF JUSTICE

RESPONSE TO

Filed: 12-08-2014

BY : Mr. Daniel G. Clodfelter

PARKER POE ADAMS & BERNSTEIN LLP

3 - M-EXT-BR (Allowed) - 12-16-2014

Filed: 12-11-2014 @ 14:56:52

FOR: Defendant-Appellant State of North Carolina

BY : Mr. Gary R. Govert

N.C. DEPARTMENT OF JUSTICE

The following order was entered:

The motion filed in this cause on the 11th of December 2014 and designated 'Defendant-Appellant State of North Carolina's Consent Motion for Extension of Time to File Brief' is allowed. Defendant-appellant's brief shall be filed on or before 20 February 2015.

By order of the Court this the 16th of December 2014.

4 - APPELLANT BRIEF

Filed: 02-20-2015 @ 17:20:50

FOR: Defendant-Appellant State of North Carolina

BY : Mr. Isham Faison Hicks

N.C. DEPARTMENT OF JUSTICE

5 - APPELLANT BRIEF
Filed: 02-20-2015 @ 17:34:21
FOR: Defendant-Appellant State of North Carolina
BY : Mr. Isham Faison Hicks
N.C. DEPARTMENT OF JUSTICE

6 - M-EXT-BR (Allowed) - 03-09-2015
Filed: 03-06-2015 @ 12:48:14
FOR: Plaintiff-Appellee City Of Asheville
BY : Mr. Daniel G. Clodfelter
PARKER POE ADAMS & BERNSTEIN LLP

The following order was entered:

The motion filed in this cause on the 6th of March 2015 and designated 'Plaintiff-Appellee City of Asheville's Consent Motion for Extension of Time to File Brief' is allowed. Plaintiff-appellee's brief shall be filed on or before 24 April 2015.

By order of the Court this the 9th of March 2015.

7 - MOTION PLAINTIFF-APPELLEE CITY OF ASHEVILLE'S CONSENT MOTION TO EXPAND PAGE AND WORD LIMITATIONS (Allowed) - 03-10-2015
Filed: 03-06-2015 @ 12:51:30
FOR: Plaintiff-Appellee City Of Asheville
BY : Mr. Daniel G. Clodfelter
PARKER POE ADAMS & BERNSTEIN LLP

The following order was entered:

The motion filed in this cause on the 6th of March 2015 and designated 'Plaintiff-Appellee City of Asheville's Consent Motion to Expand Page and Word Limitations' is allowed in part. Plaintiff-appellee may file a brief not exceeding forty-five pages (nonproportional type) or 11,250 words (proportional type) in length.

By order of the Court this the 10th of March 2015.

8 - M-AMICUS (Allowed) - 04-28-2015
Filed: 04-24-2015 @ 14:39:28
FOR:
BY : Mr. Gabriel Du Sablon

The following order was entered:

The motion filed in this cause on the 24th of April 2015 and designated 'Motion by the City of Wilson for Leave to File Brief Amicus Curiae' is allowed. The attached brief shall be printed.

By order of the Court this the 28th of April 2015.

9 - APPELLEE BRIEF
Filed: 04-24-2015 @ 16:44:32
FOR: Plaintiff-Appellee City Of Asheville
BY : Mr. Daniel G. Clodfelter
PARKER POE ADAMS & BERNSTEIN LLP

10 - OTHER BRIEF AMICUS
Filed: 04-24-2015 @ 14:42:02
FOR:
BY : Mr. Gabriel Du Sablon

11 - M-AMICUS (Other) - 04-28-2015

Filed: 04-27-2015 @ 08:19:33

FOR:

BY : Ms. Kimberly S. Hibbard
N.C. LEAGUE OF MUNICIPALITIES

The following order was entered:

The motion filed in this cause on the 27th of April 2015 and designated 'North Carolina League of Municipalities' (1) Motion for Leave to File Amicus Curiae Brief and (2) Motion For Word Count Extension' is decided as follows: Movant may file an amicus curiae brief not exceeding 3750 words (proportional type) in length on or before 1 May 2015.

By order of the Court this the 28th of April 2015.

12 - OTHER BRIEF AMICUS

Filed: 05-01-2015 @ 14:11:00

FOR:

BY : Ms. Kimberly S. Hibbard
N.C. LEAGUE OF MUNICIPALITIES

13 - MOTION [NOTICE OF WITHDRAWAL AS COUNSEL TO PLAINTIFF-APPELLEE CITY OF ASHEVILLE] (Allowed) - 10-06-2015

Filed: 05-08-2015 @ 09:05:17

FOR: Plaintiff-Appellee City Of Asheville

BY : Mr. Jason G. Idilbi
MOORE & VAN ALLEN PLLC

The following order was entered:

The motion filed in this cause on the 8th of May 2015 and designated '[Notice of Withdrawal as Counsel to Plaintiff-Appellee city of Asheville]' is allowed.

By order of the Court this the 6th of October 2015.

14 - APPELLANT BRIEF REPLY

Filed: 05-11-2015 @ 13:55:32

FOR: Defendant-Appellant State of North Carolina

BY : Mr. Gary R. Govert
N.C. DEPARTMENT OF JUSTICE

16 - PWS (Dismissed as moot) - 11-10-2015

Filed: 11-09-2015 @ 16:36:49

FOR:

BY : Mr. Matthew W. Sawchak
ELLIS & WINTERS LLP

The following order was entered:

The petition filed in this cause on the 9th of November 2015 and designated 'Plaintiff-Appellees' Unopposed Petition for Writ of Supersedeas and Unopposed Motion for a Temporary Stay' is dismissed as moot.

By order of the Court this the 10th of November 2015.

The above order is therefore certified to the Clerk of the Superior Court, Wake County.

17 - PWS (Dismissed as moot) - 11-10-2015

Filed: 11-09-2015 @ 16:36:49

FOR: Plaintiff-Appellee City Of Asheville

BY : Mr. Matthew W. Sawchak
ELLIS & WINTERS LLP

The following order was entered:

The petition filed in this cause on the 9th of November 2015 and designated 'Plaintiff-Appellees' Unopposed Petition for Writ of Supersedeas and Unopposed Motion for a Temporary Stay' is dismissed as moot.

By order of the Court this the 10th of November 2015.

The above order is therefore certified to the Clerk of the Superior Court, Wake County.

18 - PET-REHEAR (Denied) - 11-10-2015

Filed: 11-09-2015 @ 16:39:27

FOR:

BY : Mr. Matthew W. Sawchak
ELLIS & WINTERS LLP

The following order was entered:

The petition filed in this cause on the 9th of November 2015 and designated 'Plaintiff-Appellee's Petition for Rehearing' is denied.

By order of the Court this the 10th of November 2015.

The above order is therefore certified to the Clerk of the Superior Court, Wake County.

19 - PET-REHEAR (Denied) - 11-10-2015

Filed: 11-09-2015 @ 16:39:27

FOR: Plaintiff-Appellee City Of Asheville

BY : Mr. Matthew W. Sawchak
ELLIS & WINTERS LLP

The following order was entered:

The petition filed in this cause on the 9th of November 2015 and designated 'Plaintiff-Appellee's Petition for Rehearing' is denied.

By order of the Court this the 10th of November 2015.

The above order is therefore certified to the Clerk of the Superior Court, Wake County.

20 - M-TEMP-STAY

Filed: 11-09-2015 @ 07:59:58

FOR:

BY : Mr. Matthew W. Sawchak
ELLIS & WINTERS LLP

21 - M-TEMP-STAY

Filed: 11-09-2015 @ 07:59:58

FOR: Plaintiff-Appellee City Of Asheville

BY : Mr. Matthew W. Sawchak
ELLIS & WINTERS LLP

Financial Information

Receipts

Date Charged	Charge Type	Amount Charged	Amount Paid	Document	Pages	Receipt #	Date Paid
05-08-2015	Printing	42.00	42.00	OTHER BRIEF	24	R062000115	06-01-2015
11-20-2014	Docket Fee	10.00	10.00			R122004314	12-04-2014
12-12-2014	Printing	313.25	313.25	RECORD	179	R022014315	02-13-2015
06-19-2015	Printing	35.00	35.00	APPELLANT BRIEF	20	R072002115	07-02-2015
01-30-2017	Retax	450.25	450.25			R022010217	02-13-2017
04-27-2015	Printing	98.00	98.00	APPELLEE BRIEF	56	R052004315	05-06-2015
10-07-2015	Assess	332.25	332.25			R102033915	10-22-2015
04-27-2015	Printing	36.75	36.75	OTHER BRIEF	21	R062004715	06-05-2015
11-02-2015	CD/DVD	10.00	10.00			R112000615	11-02-2015
11-02-2015	Copies	2.00	2.00			R112001015	11-02-2015
11-16-2015	Pet to Rehear	20.00	20.00			R112034815	11-16-2015
11-16-2015	Pre Docket Fees	10.00	10.00			R112034915	11-16-2015

Payments

Payment Date	Payment Type	Amount	Check Number
11-05-2015	Disburse	323.25	40948
02-20-2017	Disburse	20.00	42348
02-20-2017	Disburse	430.25	42349

Exhibits

Transcript(s) Electronically Filed

transcript.asheville2014.05.23.wakecounty.pdf

Parties

Party Name	Role
City Of Asheville	Plaintiff-Appellee
State of North Carolina	Defendant-Appellant
Metropolitan Sewerage District of Buncombe County	Defendant-Appellee

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