

SUPREME COURT OF NORTH CAROLINA

PETITIONS

8 October 1998

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COMMON ABBREVIATIONS

Abbreviation	Full Term
NOA	Notice of Appeal
Def	Defendant
Plt	Plaintiff
PDR	Petition for Discretionary Review
Cert	Certiorari
AG	Attorney General

75A98	Harrington v. Adams-Robinson and Wausau Insurance Company	NC Academy of Trial Lawyers' Motion for Leave to File Amicus Curiae Brief	Allowed 8/4/98
119A97	Martin v. Benson	Plts' Petition for Rehearing	Denied
153P98	Stem and Keeton v. Richardson and NC Farm Bureau Mutual Insurance Company	Def's Petition for Writ of Certiorari to Review the Decision of the NC Court of Appeals	Allowed
156P98	State v. Nobles	Def Attorney's Motion to Withdraw as Counsel and to Appoint Substitute Counsel	Allowed
178P98	Dunkley v. Shoemate, Munson, et al.	Def's (Shoemate) PDR Under G.S. 7A-31	Allowed
185P98	Ferrell, Jr. v. Yarbrough, and Old Town Shopping Center, Inc.	Def's PDR Under G.S. 7A-31	Denied
192A98	State Farm Mutual Auto Ins. Co, et al. v. James E. Long, Commissioner of Insurance of the State of NC, and Muriel K.	(1) Plts' NOA (Dissent) (2) Plts' NOA (Constitutional Question)	(1) (2)

	Offerman, Secretary, NC Dep't of Revenue	(3) Plts' PDR as to Additional Issues (4) Def's Motion to Dismiss Appeal as to Questions 3, 4, 5	(3) Denied (4) Allowed
205A97	State v. Trull	Def's Motion to Amend the Record on Appeal	Allowed 9/14/98
206P98	State v. Greene	Def's Pet. for Writ of Cert. to Review the Order of the NC COA	Denied
219P98	State v. Reynolds	Def's PDR Under G.S. 7A-31	Denied
224P98	State v. Goins	Def's PDR Under G.S. 7a-31	Denied
230P98	State v. Alexander	Def's PDR Under G.S. 7A-31	Denied
235P98	State v. Ryan	Def's Pet. for Writ of Cert. to Review Decision of the NC COA	Denied
237P98	Rice, Cherry and Williams v. Jones and Fortune	Plts' PDR Under G.S. 7A-31 Justice WYNN recused	Denied
238P98	Washington v. Mitchell	Def's PDR Justice WYNN recused.	Denied
240P98	State v. Clayton Travis M. Brickhouse	(1) Def's NOA Based Upon a Constitutional Question (2) Def's PDR Under G.S. 7A-31	(1) Dismissed <i>ex mero motu.</i> (2) Denied
243P98	Mark IV Beverage, Inc. v. Molson Breweries USA, Inc., Miller Brewing Co., Martlet, et al.	Defs' (Molson Breweries, Miller Brewing and Martlet Importing) PDR Under G.S. 7A-31	Denied
244P98	Tar Heel Home Health, Inc. v. NC DHR, Div. of Facility Services, CON	Pet's PDR Under G.S. 7A-31 Justice WYNN recused.	Denied

	Section and Total Care, Inc.		
246P98	State v. Petree Stockton, L.L.P., and James M. Iseman	(1) Plt's PDR (2) Defs' Motion to Dismiss Plt's PDR (3) Def Iseman's Motion to Dismiss Appeal (4) Plt's Petition for Writ of Certiorari	(1) (2) Allowed (3) Dismissed (4) Allowed as to constructive fraud issue.
248P98	State v. Derrick Allen	Def's Pet. for Writ of Cert. to Review Decision of the NC COA	Denied
250PA97	Smith Chapel Baptist Church, et al. v. City of Durham, a NC Municipal Corporation	(1) Plt's Petition for Rehearing (2) Chatham County Agribusiness Council's Motion for Leave to File Amicus Brief	(1) Allowed 9/30/98 (2) Allowed 10/1/98
251P98	State v. Coleman	Def's Pro Se Pet. for Writ of Cert. to Review Order of NC COA	Denied
254P98	State v. Atkinson	Def's Pro Se Pet. for Writ of Cert. to Review Order of the NC COA	Denied
255P98	Zannie Garner v. Rentenbach Constructors Inc. v. Allied Clinical Laboratories	(1) Def's (Rentenbach Constructors Inc.) PDR (2) Third-Party Def's (Allied Clinical Laboratories) PDR	(1) Allowed (2) Allowed
259P98	State v. Ervin	Def's Pet. for Writ of Cert. to Review Order of the NC COA	Denied
261A98	Boyd v. Drum, Balls Creek Salvage Co., Inc., Read and Balls Creek Salvage Co.	(1) Plts' NOA Based Upon a Dissent	(1) (2) Denied

		(2) Plts' PDR Under G.S. 7A-31	
262P98	Austin v. Large Animal Medicine and Surgery, P.A.	Plt's PDR Under G.S. 7A-31	Denied 9/30/98
264P98	High v. Boland	Def's PDR Under G.S. 7A-31 Justice WYNN recused.	Denied
265P98	Costello, Sr. v. House of Raeford	Def's PDR	Denied
266P98	Strader v. Sunstates Corporation, et al.	Defs' PDR Under G.S. 7A-31	Denied 9/30/98
267P98	Charms v. Brown	Pet's PDR Under G.S. 7A-31	Denied
268P98	HMS General Contractors, LLC v. Snipes & Associates, Inc., Pope, Jr. v. Snipes, Milliken, et al.	(1) Defs' (Snipes & Associates and Pope) Pet. for Writ of Cert. to Review Decision of the NC COA (2) Plts'/Third Party Defs' Motion for Expedited Consideration	(1) Denied 7/31/98 (2) Dismissed 7/31/98
269P98	Reese v. Barbee	Plt's PDR Under G.S. 7A-31	Allowed
271P98	Sara Lee Corp. v. Carter	Plt's PDR Under G.S. 7A-31 Supplemental Memo	Allowed 9/30/98
274P98	State v. Clyde Ronald Lumbard, III	(1) Def's Pro Se Pet. for Writ of Cert. to Review Order of NC COA (2) Def's Pro Se Pet. for Writ of Cert. to Review Order of NC COA	(1) Denied (2) Denied
277P98	Sweeney v. Wake County	Plt's PDR Under G.S. 7A-31	Allowed 9/30/98
278P98	Williams v. Town of Kernersville	Petitioner's PDR Under G.S. 7A- 31	Denied

		Justice WYNN recused	
280P98	R.E. Carroll Construction Co. v. Roberts	Def's PDR Under G.S. 7A-31	Denied
282P98	Hughes v. Welch d/b/a G & L Livestock	Plts' PDR Under G.S. 7A-31	Denied
283P98	State v. Jeremy Aiken	(1) AG's Motion for Temporary Stay (2) AG's Petition for Writ of Supersedeas (3) AG's PDR Under G.S. 7A-31 (4) Def's Conditional PDR as to Additional Issues	(1) Denied 7/22/98 (2) Denied 9/30/98 (3) Denied 9/30/98 (4) Dismissed as moot. 9/30/98
285P98	Town of Spencer v. Town of East Spencer, et al.	(1) Plt's PDR Under G.S. 7A-31 (2) Plt's Motion for Temporary Stay (3) Plt's Petition for Writ of Supersedeas	(1) Allowed 8/18/98 (2) Allowed 8/18/98 (3) Allowed 8/18/98
287P98	State v. Stukes	Def's PDR	Denied
291P98	State v. Ward, Jr.	(1) AG's Motion for Temporary Stay (2) AG's Petition for Writ of Supersedeas (3) AG's PDR Under G.S. 7A-31	(1) Allowed 7/27/98 (2) Stay dissolved and supersedeas denied. (3) Denied

293P98	Warren v. Guilford County; Guilford Co. Area Mental Illness Developmental Disability & Substance Abuse Authority, et al	Plt's PDR Under G.S. 7A-31	Denied and defendant's additional issues dismissed as moot.
294P98	Fletcher v. Nationwide Insurance, a/k/a Nationwide Mutual Fire Insurance Co.	(1) Plt's PDR (2) Def's Conditional PDR as to Additional Issues	(1) Denied (2) Dismissed
295P98	State v. Jenkins	Def's Pro Se Petition for Writ of Certiorari	Denied
298P98	Broughton v. Broughton	(1) Plts' Pet. for Writ of Cert. to Review Order of the NC COA (2) Def's Motion for Sanctions	(1) Denied (2) Denied
300P98	State v. McIntyre	Def's Pro Se Pet. for Writ of Cert. to Review Order of NC COA	Denied
301P98	AAA Signs of Burlington, Inc. v. City of Burlington	Pet's PDR	Denied
302P98	State v. Donnie Ray Holyfield	(1) AG's Motion for Temporary Stay (2) AG's Petition for Writ of Supersedeas (3) AG's PDR Under G.S. 7A-31 (4) Def's NOA based upon a Constitutional Question (5) Def's PDR Under G.S. 7A-31 (6) AG's Motion to Dismiss Appeal	(1) Allowed 8/3/98 (2) Stay dissolved and supersedeas denied. (3) Denied (4) (5) Denied (6) Allowed

304P98	State v. Robinson	(1) Def's NOA Based Upon a Constitutional Question (2) Def's PDR Under G.S. 7A-31 (3) AG's Motion to Dismiss Appeal	(1) (2) Denied (3) Allowed
306P98	In the Matter of the Will of Miller Taylor	(1) Propounders' Pet. for Writ of Cert. to Review Decision of NC COA (2) Propounders' (Kenneth Davis) Motion to Suspend or Vary Rules	(1) Denied (2) Allowed
311P98	State v. John Frances Hayes	(1) AG's Motion for Temporary Stay (2) AG's Petition for Writ of Supersedeas (3) AG's PDR Under G.S. 7A-31 (4) Def's PDR Under G.S. 7A-31 (5) AG's Motion to Dismiss Appeal	(1) Denied 8/7/98 (2) Allowed 9/30/98 (3) Allowed 9/30/98 (4) Allowed 9/30/98 (5) Denied 9/30/98
312P98	William W. Carriker, Jr., et al. v. Casper O. Carriker, Jr., et al.	Plt's PDR Under G.S. 7A-31 Justice WYNN recused.	Allowed
314P98	Bryant v. Weyerhaeuser Company and Self-Insured	Def's PDR Under G.S. 7A-31	Denied
315P98	State v. Rich	Def's PDR	Denied

		Justice WYNN recused.	
317P98*	In the Matter of Daniel Bailey	Pet's (Durham County DSS) Petition for Writ of Supersedeas	Denied 8/12/98
321P98	State v. Douglas	Def's Pro Se Petition for Writ of Cert. to Review Order of the COA	Denied
322P98	State v. McKissick	(1) Def's Pro Se Motion for Leave to File an Untimely PDR (2) Def's Pro Se Pet. for Writ of Cert. to Review Decision of NC COA	(1) Denied (2) Denied
323P98	State v. Sartori	Def's Pro Se Pet. for Writ of Cert. to Review Decision of NC COA	Denied
325P98	State v. Powers	Def's Pro Se Pet. for Writ of Cert. to Review Order of the NC COA	Denied
326P98	State v. Bojorquez	Def's Pro Se PDR Under G.S. 7A- 31 Justice WYNN recused.	Denied
327P98	State v. McInnis	Def's Pro Se Pet. for Writ of Cert. to Review Order of NC COA	Denied
32P98-2	State v. Felton	Def's "Motion of Appeals" of denial order of August 17, 1998	Denied
331A98	State v. Qualls	(1) Def's NOA Based Upon a Dissent (2) Def's PDR as to Additional Issues	(1) (2) Denied
332P98	State v. Kenneth Wayne Vaughn	Def's Motion to Withdraw as Counsel and to Appoint	Withdrawal is allowed and Appellate Defender

		Appellate Defender as Substitute Counsel	is appointed. 9/2/98
333P98	State v. Patricia Green Foust	(1) Def's NOA Based Upon a Constitutional Question (2) Def's PDR Under G.S. 7A-31 (3) AG's Motion to Dismiss Appeal	(1) (2) Denied (3) Allowed
336P98	Willie Elaine Spivery Word, Adm. CTA of the Estate of Bertha C. Spivery v. Dorothy Galloway Jones, by and Through her Guardian, Harriet B. Moore	(1) Def's PDR Under G.S. 7A-31 (2) Plt's Conditional PDR as to Additional Issues	(1) Allowed (2) Allowed
337P98	Station Associates, Inc. et al. v. Dare County	Plt's Motion to Amend	Allowed 9/17/98
339P98	State v. Johnson	Def's PDR Under G.S. 7A-31	Denied
342P98	Baldrige and Watts v. Hudson	Plts' Pet. for Writ of Cert. to Review Decision of NC COA	Denied
350A98	State v. Mark L. Milligan, Andre L. Fields and Timothy Z. Bates	(1) Def's (Fields) NOA Based Upon a Constitutional Question (2) Def's (Bates) NOA Based Upon a Constitutional Question (3) Def's (Milligan) NOA Based Upon a Constitutional Question (4) AG's Motion to Dismiss Appeals	(1) (2) (3) (4) Allowed
351P98	Kirkland v. Ellis	Def's PDR Under G.S. 7A-31	Allowed
352P98	Hubbard v. State Construction Office, NC Dep't of Admin.	Plt's PDR Under G.S. 7A-31	Denied

353P98	State v. Raymond Henry O'Neal	(1) Def's PDR Under G.S. 7A-31 (2) Def's Pro Se NOA Based Upon a Constitutional Question	(1) Denied (2) Dismissed <i>ex mero motu</i> .
355PA97	Bring v. N.C. State Bar	Plt's Petition for Rehearing	Denied 9/30/98
356P98*	State v. Julian Myers	Def's Petition for Writ of Habeas Corpus	See separate order. 8/21/98
357P98	State v. Jack Foy	(1) AG's Motion for Temporary Stay (2) AG's Petition for Writ of Supersedeas (3) AG's PDR Under G.S. 7A-31 (4) Def's Motion to Expedite Determination of the State's Petitions for Discretionary Review and Writ of Supersedeas Under Rules 2 and 29	(1) Allowed 8/21/98 (2) Denied and Stay dissolved. 9/14/98 (3) Denied 9/14/98 (4) Allowed 9/14/98
362P98	State v. Marecek	Def's Motion to Suspend Rules and to Extend Time for Filing Response to PDR Until 9/18/98	Allowed 9/16/98
363P98	Mildred C. Richardson, et al. v. Philip Morris, Inc., et al.	(1) Plts' Pet. for Writ of Cert. to Review Order of the NC COA or (2) Plt's Petition for Writ of Mandamus (3) Plts' Motion to Suspend Rules of Appellate Procedure to Allow Immediate Review of the Superior Court Order	(1) (2) (3) (4) Allowed 9/17/98

		(4) Plts' Motion to Withdraw PDR	
364P98	State v. Larry Wayne Boggs	Def's PDR Under G.S. 7A-31	Denied
366A98	State v. Moore	(1) Def's NOA Based Upon a Constitutional Question (2) AG's Motion to Dismiss Appeal	(1) (2) Allowed
370P98	Juanita Patterson v. China Grove Textiles, Inc. Travelers Insurance Co.	(1) Defs' Motion for Temporary Stay (2) Defs' Petition for Writ of Supersedeas (3) Defs' PDR Under G.S. 7A-31	(1) Denied 9/16/98 (2) Denied 9/16/98 (3) Denied 9/16/98
371P98	Burleson v. Case Farms of North Carolina, Inc.	(1) Def-Appellant's PDR Pursuant to G.S. 7A-31 (2) Plt's Conditional PDR as to Additional Issues (3) Def's Motion to Withdraw PDR and Related Filings	(1) (2) (3) Allowed
373P98	Barber v. Constien, M.D. and Chung, M.D.	Def's PDR Under G.S. 7A-31	Denied
377P98*	Batoul Atassi v. Inad Atassi	Def's Motion for Immediate Stay on Application for Writ of Supersedeas Pending the Filing of a Petition for Writ of Supersedeas	Stay Allowed. 9/2/98
37A86-4	State v. Michael Lee Fullwood	(1) Def's Pet. for Writ of Cert. to Review Order of Superior Court	(1) Denied (2) Denied (3) Denied

		(2) Def's Motion to Amend Petition for Writ of Certiorari (3) Def's Motion for Temporary Stay of Ruling on Pet. for Writ of Cert. and Motion of Post- Conviction Counsel to Withdraw Justice ORR recused.	
382P98	Thompson v. NC DOO1 Surry County Superior Court	(1) Plt's Pro Se Petition for Writ of Mandamus (2) Plt's Motion to Proceed <i>in</i> <i>Forma Pauperis</i>	(1) Denied (2) Allowed
383P98	State v. Joyce	Def's Pro Se Petition for Writ of Habeas Corpus	Denied 9/14/98
386P98	Croker v. Yadkin, Inc.	Def-Appellee Yadkin, Inc.'s Motion for Substitution of Counsel	Denied
395P98	Raintree Homeowners Association, Inc. v. Raintree Country Club, Inc. and Bellsouth Carolinas PCS, L.P.	(1) Defs' (Raintree Country Club, Inc.) Motion for Temporary Stay (2) Defs' (Raintree Country Club, Inc.) Petition for Writ of Supersedeas	(1) Denied 9/10/98 (2)
402PA97	Bethania Town Lot Committee, et al. v. City of Winston- Salem, et al.	Plts' Petition for Rehearing	Denied
402P98*	Leigh v. Elizabeth City Housing Authority, et al.	(1) Plt's (Pro Se) Motion for Temporary Stay (2) Plt's (Pro Se) Petition for Writ of Supersedeas	(1) Denied 9/11/98 (2) Denied 9/11/98
410P98*	State v. Demetrius Terrill Dove	(1) AG's Petition for Writ of Supersedeas	(1) Denied 9/18/98

		(2) Attorney General's Motion for Temporary Stay	(2) Denied 9/18/98
412P98	State v. Taylor	Def's "Motion of Grievance" or "Grievance Complaint"	Dismissed
42A93-2	State v. Robert William Walls	Def's Pet. for Writ of Cert. to Review the Order of the Superior Court	Denied 9/30/98
505A96*	State v. Melvin Lee White, Jr.	Def's Motion to Amend the Record on Appeal	Allowed 9/29/98
582A97	State v. LaPlanche a/k/a Willis	Def's Motion for Excusal from Oral Argument	Allowed 8/25/98
62P97-2*	Virmani v. Presbyterian Health Services	(1) Press Association's & Broadcasters' Association Motion for Leave to Participate in Oral Argument (2) Appellant's Motion to Extend Time for Oral Argument (extra 15 minutes)	(1) Allowed 9/22/98 (2) The motion is allowed in part as follows: Appellant is allowed 5 extra minutes for rebuttal of Amici's oral argument if needed. 9/28/98
91A95-2	State v. Thomas	Def's Motion to Extend Time for Filing Pet. for Writ of Cert. to Review the June 8, July 8, and July 28, 1998 Orders of Trial Court in Capital Motion for Appropriate Relief on 9/21/98	Allowed 7/31/98
91A95-2	State v. James Edward Thomas	Def's Second Motion to Extend Time for Filing Petition for Writ of Cert. to Review the June 8, July 8 and July 28, 1998 Orders of Trial Court in Capital Motion for Appropriate Relief on 11/15/98	Allowed until 20 October 1998.
165A84-4*	State v. Charles Gene Rogers	Def's Pro Se Motion for Leave to Amend	Dismissed as moot. 8/20/98

233A91-4	State v. Zane Brown Hill	(1) Def's Expedited Petition for Writ of Certiorari to Review the Order of the Superior Court (2) Def's Motion for Summary Reversal	(1) Denied 8/7/98 (2) Denied 8/7/98
317A98-2	In the Matter of: Daniel Bailey	(1) Pet-Appellant's (Durham Co. DSS) NOA (Dissent) (2) Pet-Appellant's (Durham Co. DSS) PDR Under G.S. 7A-31	(1) (2) Allowed
435A90-2	State v. Jones	Def's Motion to Toll Running of Time Limit to File Petition for Writ of Certiorari	Defendant is allowed until 8 September 1998 to file his petition for writ of certiorari. 8/3/98
637A84-4*	State v. Elton Ozell McLaughlin	Def's Motion to By-Pass NC Court of Appeals	Allowed 9/16/98