

# North Carolina Court of Appeals

## Docket Sheet

DOT v Blevins

**Case Number:** 08-266

**As of:** 05/01/2024

**Case Closed:** Yes

**Close Date:** 01-26-2009

**Case Type:** Civil (Civil\_othr)

**Mediation:** No

DEPARTMENT OF TRANSPORTATION,  
Plaintiff,

V

DAVID C. BLEVINS;

**Docket Date:** 03-25-2008

**File Date:** 03-06-2008

**File Time:** 01:36

**Acquired Date:** 03-06-2008

**Bond Collected:** Yes

**Docket Fee:** Yes

**Pauper:** No

Print Deposit: No

**State Appeals:** Yes

### History

**Venue:** Haywood (43)

**Heard In:** Superior Court

**To SC:**

**From SC:**

### Lower Court Number(s)

Location: Haywood (43)

Judge: J. Marlene Hyatt

Case #: 01CVS473

### Tracking/Argue

**Argue Date:** 09-10-2008 (No oral argument by Rule 30(f))

### Opinion

Opinion Date: 01-06-2009

Cert Date: 01-26-2009

Author: Honorable Wanda G. Bryant

Decision: Affirmed in part; dismissed in part

Opinion Notes:

Opinion Pages: 17

Opinion Cost: \$ 3.40

Cite: 194 NC App 637

Slip Opinion: <https://appellate.nccourts.org/opinions/?c=2&pdf=3905>

### Documents

Document	Date Recvd	Cert of Service	Rec/Brt Due	Resp. Due	Resp. Recvd	Mailed Out	Ruling	Ruling Date
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(1) RECORD	03-06-2008	03-06-2008				04-01-2008		
(2) RECORD	03-06-2008	03-06-2008						

(3) MOTION	04-25-2008	04-25-2008					Allowed	05-13-2008
(4) MOTION	04-28-2008	04-28-2008					Allowed	04-29-2008
(5) MOTION	04-28-2008	04-28-2008					Allowed	04-30-2008
(6) MOTION	05-16-2008	05-16-2008		05-30-2008	05-23-2008		Special Order	05-28-2008
(7) APPELLANT BRIEF	05-30-2008	05-30-2008				06-09-2008		
(8) INFORM SHT	05-30-2008	05-30-2008						
(9) APPELLANT BRIEF	06-02-2008					06-06-2008		
(10) MOTION	06-30-2008	06-27-2008					Allowed	07-15-2008
(11) SUBSTITUTE	06-30-2008	06-27-2008				07-24-2008		
(12) MOTION	07-02-2008	07-02-2008		08-05-2008			Allowed	07-03-2008
(13) APPELLEE BRIEF	07-02-2008					07-07-2008		
(14) REPLY	08-04-2008	08-04-2008				08-08-2008		
(15) REPLY	08-25-2008					08-27-2008		

## 1 - RECORD

Filed: 03-06-2008 @ 13:36:00

FOR: Plaintiff-Appellant DOT

BY : Mr. Martin T. McCracken

## 2 - RECORD

Filed: 03-06-2008 @ 13:36:00

FOR: Defendant-Appellant David C. Blevins

BY : Mr. Jones P. Byrd

THE VAN WINKLE LAW FIRM

## 3 - MOTION (Allowed) - 05-13-2008

Filed: 04-25-2008 @ 12:00:00

FOR: Defendant-Appellant David C. Blevins

BY : Mr. Jones P. Byrd

THE VAN WINKLE LAW FIRM

The following order was entered:

The motion filed in this cause on the 25th day of April 2008 and designated Defendant-Appellee's Motion to Supplement/Amend The Record on Appeal and The Rule 11 Supplement is allowed. The attached documents shall be added to the Rule 11(c) supplement to the printed record.

By order of the Court this the 13th day of May 2008.

## 4 - MOTION (Allowed) - 04-29-2008

Filed: 04-28-2008 @ 12:00:00

FOR: Plaintiff-Appellant DOT

BY : Mr. Martin T. McCracken

The following order was entered:

The motion filed in this cause on the 28th day of April 2008 and designated Motion Appellant's Motion for Extension of Time is allowed. The Appellant's brief for the Department of Transportation shall be filed on or before June 2, 2008.

By order of the Court this the 29th day of April 2008.

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5 - MOTION (Allowed) - 04-30-2008  
Filed: 04-28-2008 @ 12:00:00  
FOR: Defendant-Appellant David C. Blevins  
BY : Mr. Jones P. Byrd  
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The following order was entered:

The motion filed in this cause on the 28th day of April 2008 and designated Defendant-Appellee/Cross-Appellant's Motion for Extension of Time to File and Serve Brief is allowed. The Defendant-Appellee/Cross-Appellant's brief shall be filed and served on or before June 2, 2008.  
By order of the Court this the 30th day of April 2008.

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6 - MOTION (Special Order) - 05-28-2008  
Filed: 05-16-2008 @ 12:00:00  
FOR: Defendant-Appellant David C. Blevins  
BY : Mr. Jones P. Byrd  
THE VAN WINKLE LAW FIRM

The following order was entered:

The motion filed in this cause on the 16th day of May 2008 and designated Defendant's Motion to Dismiss and Request for Briefing Schedule Extension Until After Motion Disposition is decided as follows: The motion to dismiss plaintiff-appellant's assignments of error 1 through 30 is allowed. Defendant-appellants' motion for extension of time to file their brief is denied.

By order of the Court this the 28th day of May 2008.

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RESPONSE TO MOTION  
Filed: 05-23-2008  
BY :

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7 - APPELLANT BRIEF  
Filed: 05-30-2008 @ 16:18:00  
FOR: Plaintiff-Appellant DOT  
BY : Mr. Martin T. McCracken

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8 - AIS INFORM SHT  
Filed: 05-30-2008 @ 16:18:00  
FOR: Plaintiff-Appellant DOT  
BY : Mr. Martin T. McCracken

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9 - APPELLANT BRIEF  
Filed: 06-02-2008 @ 16:23:00  
FOR: Defendant-Appellant David C. Blevins  
BY : Mr. Jones P. Byrd  
THE VAN WINKLE LAW FIRM

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10 - MOTION (Allowed) - 07-15-2008  
Filed: 06-30-2008 @ 12:00:00  
FOR: Defendant-Appellant David C. Blevins  
BY : Mr. Jones P. Byrd  
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The following order was entered:

The motion filed in this cause on the 30th day of June 2008 and designated Defendant-Appellee/Cross-Appellant's Motion to Correct Clerical Error and File Substitute Brief is allowed. Defendant-appellant's brief is stricken, and the attached brief shall be substituted and printed.

By order of the Court this the 15th day of July 2008.

11 - APPELLANT BRIEF SUBSTITUTE  
 Filed: 06-30-2008 @ 13:34:00  
 FOR: Defendant-Appellant David C. Blevins  
 BY : Mr. Jones P. Byrd  
 THE VAN WINKLE LAW FIRM

12 - MOTION (Allowed) - 07-03-2008  
 Filed: 07-02-2008 @ 12:00:00  
 FOR: Plaintiff-Appellant DOT  
 BY : Mr. Martin T. McCracken

The following order was entered:

The motion filed in this cause on the 2nd day of July 2008 and designated Appellant's [sic] Motion for Extension of Time is allowed. Plaintiff-appellee's brief shall be filed on or before 5 August 2008.

By order of the Court this the 3rd day of July 2008.

13 - APPELLEE BRIEF  
 Filed: 07-02-2008 @ 18:56:00  
 FOR: Defendant-Appellant David C. Blevins  
 BY : Mr. Jones P. Byrd  
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14 - APPELLANT BRIEF REPLY  
 Filed: 08-04-2008 @ 12:15:00  
 FOR: Plaintiff-Appellant DOT  
 BY : Mr. Martin T. McCracken

15 - APPELLANT BRIEF REPLY  
 Filed: 08-25-2008 @ 17:10:00  
 FOR: Defendant-Appellant David C. Blevins  
 BY : Mr. Jones P. Byrd  
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### Financial Information

#### Receipts

Date Charged	Charge Type	Amount Charged	Amount Paid	Document	Pages	Receipt #	Date Paid
03-14-2008	Docket Fee	10.00	10.00			R032020808	04-03-2008
04-01-2008	Printing	134.75	134.75	RECORD	77	R042000208	05-15-2008
06-09-2008	Printing	63.00	63.00	APPELLANT BRIEF	36	R062006808	08-12-2008
08-08-2008	Printing	42.00	42.00	APPELLANT BRIEF	24	R082011408	12-05-2008
01-06-2009	Assess	4.50	4.50			R012001209	02-10-2009
03-13-2009	Cert Fee	10.00	10.00			R032023009	03-13-2009
03-14-2008	Docket Fee	10.00	10.00			R032033208	03-25-2008
03-14-2008	Bond	250.00	250.00			R032033208	03-25-2008
	Printing	668.50	668.50	MOTION	382	R072010608	07-14-2008
08-27-2008	Printing	38.50	38.50	APPELLANT BRIEF	22	R082043108	09-15-2008
06-06-2008	Printing	70.00	70.00	APPELLANT BRIEF	40	R062051608	06-06-2008
07-24-2008	Printing	75.25	73.50	APPELLANT BRIEF	43	R072056608	07-24-2008
07-24-2008	Balance	1.75	1.75	APPELLANT BRIEF	43	R072056708	08-12-2008

#### Payments

Payment Date	Payment Type	Amount	Check Number
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01-06-2009 Disburse 245.50 33020

**Exhibits****Parties**

Party Name	Role
Department of Transportation	Plaintiff-Appellant
DOT	Plaintiff-Appellant
David C. Blevins	Defendant-Appellant
Blevins, David C.	Defendant-Appellant
Brown, Gavin A.	Defendant-Appellee
First Citizens Bank And Trust Co.	Defendant-Appellee

**Attorneys****Attorney for Plaintiff-Appellant - DOT**

Mr. Martin T. McCracken [Primary Attorney]

Special Deputy Attorney General

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N.C. DEPARTMENT OF JUSTICE

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