

IN THE SUPREME COURT OF NORTH CAROLINA

No. 20PA98

FILED: 9 JULY 1998

MARTY C. KENNEDY

V.

CLARICE HAWLEY, Administratrix of KEITH RAY HAWLEY, DECEASED

On discretionary review pursuant to N.C.G.S. § 7A-31 of a unanimous decision of the Court of Appeals, 128 N.C. App. 312, 494 S.E.2d 787 (1998), reversing an order granting summary judgment in favor of defendant entered by Sumner, J., on 19 December 1996 in Superior Court, Nash County. Heard in the Supreme Court 26 May 1998.

Alison A. Erca for plaintiff-appellee.

Battle, Winslow, Scott & Wiley, P.A., by J. Brian Scott and M. Greg Crumpler, for defendant-appellant.

Hedrick, Eatman, Gardner & Kincheloe, L.L.P., by Neil P. Andrews, on behalf of N.C. Association of Defense Attorneys, *amicus curiae*.

PER CURIAM.

Pursuant to this Court's holding in *Dyson v. Stonestreet*, 326 N.C. 798, 392 S.E.2d 398 (1990), we reverse the decision of the Court of Appeals and remand this case to that court for further remand to the Superior Court, Nash County, for reinstatement of its summary judgment in favor of defendant.

REVERSED AND REMANDED.