

IN THE SUPREME COURT OF NORTH CAROLINA

No. 488A97

STATE OF NORTH CAROLINA

v.

JERRY LEE BALLARD

Appeal by defendant pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 127 N.C. App. 316, 489 S.E.2d 454 (1997), finding no prejudicial error in a judgment entered by Johnson (Marcus), J., on 5 June 1996 in Superior Court, Buncombe County. On 10 March 1998, the Supreme Court allowed discretionary review of additional issues. Heard in the Supreme Court 30 September 1998.

*Michael F. Easley, Attorney General, by Reuben F. Young, Assistant Attorney General, for the State.*

*Belser & Parke, P.A., by David G. Belser, for defendant-appellant.*

PER CURIAM.

For the reasons stated in the dissenting opinion for the Court of Appeals by Martin (John C.), J., the decision of the Court of Appeals is reversed. We conclude that defendant's petition for discretionary review as to additional issues was improvidently allowed.

REVERSED IN PART; DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED IN PART.

Justice WYNN did not participate in the consideration or decision of this case.