

IN THE SUPREME COURT OF NORTH CAROLINA

No. 331A98

FILED: 5 February 1999

STATE OF NORTH CAROLINA

v.

SHERALD BERNIE QUALLS

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, ___ N.C. App. ___, 502 S.E.2d 31 (1998), finding no error in the judgment entered by Weeks, J., on 27 September 1996 in Superior Court, Cumberland County, sentencing defendant to twenty-five years' imprisonment for second-degree murder and felonious child abuse. Heard in the Supreme Court 13 January 1999.

Michael F. Easley, Attorney General, by Elizabeth Leonard McKay, Special Deputy Attorney General, for the State.

Malcolm Ray Hunter, Jr., Appellate Defender, by Charlesena Elliott Walker, Assistant Appellate Defender, for defendant-appellant.

PER CURIAM.

The Court voted unanimously to affirm the decision of the Court of Appeals as to defendant's conviction for second-degree murder.

Justice Frye voted to reverse the decision of the Court of Appeals as to defendant's conviction for felonious child abuse for the reasons stated in the dissenting opinion by Greene, J. The remaining members of the Court voted to affirm the Court of Appeals for the reasons stated in the majority opinion by

Walker, J. Accordingly, the decision of the Court of Appeals is affirmed.

AFFIRMED.