

IN THE SUPREME COURT OF NORTH CAROLINA

Filed: 9 April 1999

No. 317A98-2

IN THE MATTER OF:

DANIEL BAILEY

Appeal pursuant to N.C.G.S. § 7A-30(2) from an unpublished decision of a divided panel of the Court of Appeals, ___ N.C. App. ___, 505 S.E.2d 923 (1998), affirming in part and reversing in part an order filed 26 March 1997 by O'Neal, J., in District Court, Durham County. On 8 October 1998, the Supreme Court granted discretionary review of an additional issue. Heard in the Supreme Court 8 March 1999.

S.C. Kitchen, County Attorney, and Wendy C. Sotolongo, Assistant County Attorney, for petitioner-appellant Durham County Department of Social Services.

Janice Perrin Paul for respondent-appellee Durham County Guardian Ad Litem Program.

PER CURIAM.

As to the issue on direct appeal based on the dissenting opinion of Lewis, J., we affirm the decision of the Court of Appeals. We conclude the petition for discretionary review as to an additional issue was improvidently allowed.

AFFIRMED IN PART; DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED IN PART.