

IN THE SUPREME COURT OF NORTH CAROLINA

No. 190A99

STATE OF NORTH CAROLINA

v.

CHARLES CARLO CINTRON

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. ___, 513 S.E.2d 794 (1999), holding that the trial court erred by not instructing on the lesser-included offense of second-degree murder, thus vacating the judgment entered 7 October 1997 by Martin (Jerry Cash), J., in Superior Court, Guilford County, and ordering a new trial. Heard in the Supreme Court 20 September 1999.

Michael F. Easley, Attorney General, by Robert C. Montgomery, Assistant Attorney General, for the State-appellant.

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

PER CURIAM.

For the reasons stated in the dissenting opinion by Judge Lewis, the decision of the Court of Appeals is reversed.

REVERSED.