

IN THE SUPREME COURT OF NORTH CAROLINA

No. 521A01

FILED: 7 MARCH 2002

STATE OF NORTH CAROLINA

v.

JAMES RUSSELL SMITH

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 146 N.C. App. 1, 551 S.E.2d 889 (2001), reversing and remanding a judgment entered 15 December 1999 by Allen (J.B., Jr.), J. in Superior Court, Orange County. Heard in the Supreme Court 12 February 2002.

*Roy Cooper, Attorney General, by Steven M. Arbogast, Special Deputy Attorney General, for the State-appellant.*

*Miles & Montgomery, by Mark Montgomery, for defendant-appellee.*

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed and this case is remanded to that court to address the remaining assignments of error.

REVERSED AND REMANDED.