

IN THE SUPREME COURT OF NORTH CAROLINA

No. 558A03

FILED: 17 DECEMBER 2004

MURPHY FAMILY FARMS and MURPHY FARMS, INC. d/b/a MURPHY FAMILY FARMS,

Petitioners

v.

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES,
Respondent

Appeal by petitioners pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 160 N.C. App. 338, 585 S.E.2d 446 (2003), affirming in part and reversing in part a judgment entered on 15 May 2002 by Judge Benjamin G. Alford in Superior Court, Duplin County. On 5 February 2004, the Supreme Court granted petitioners' and respondent's petitions for discretionary review as to additional issues. Heard in the Supreme Court in the 1767 Chowan County Courthouse 8 October 2004.

Jordan Price Wall Gray Jones & Carlton, PLLC, by Henry W. Jones, Jr. and Brian S. Edlin, for petitioners-appellants/appellees.

Roy Cooper, Attorney General, by Jill B. Hickey and Francis W. Crawley, Special Deputy Attorneys General, for respondent-appellee/appellant.

PER CURIAM.

For the reasons stated in the dissenting opinion, we reverse the decision of the Court of Appeals as to the issue in petitioners' appeal relating to whether the breach and discharge constituted one separate violation, eight separate violations, or one eight-day continuous violation. Further, we hold

respondent's petition for discretionary review was improvidently allowed. This case is remanded to the Court of Appeals for further remand to Superior Court, Duplin County for reinstatement of the trial court's judgment.

REVERSED; DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED.

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