

HOWARD C. JONES, II; FRANKIE HAYES SOUTHARD; JIMMY ROY ROGERS and wife, MADILYN KAY ROGERS; GREGORY E. BOWERS and wife, NATALIE W. BOWERS; and DANIEL RAY SAMMONS and wife, SHARON P. SAMMONS v. ROBERT WAYNE DAVIS and wife, GLENDA K. DAVIS; JERRY ALLAN ALLRED and wife, YVONNE DAVIS ALLRED, and SURRY COUNTY

No. 232A04

FILED: 4 MARCH 2005

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 163 N.C. App. 628, 594 S.E.2d 235 (2004), affirming a judgment entered on 11 February 2003 by Judge John O. Craig, III in Superior Court, Surry County. On 6 October 2004, the Supreme Court allowed defendant Surry County's petition for writ of certiorari pursuant to N.C.G.S. § 7A-32(b) to review the Court of Appeals' disposition of an order entered on 10 February 2003 by Judge Craig in Superior Court, Surry County. Heard in the Supreme Court 8 February 2005.

*Horton and Gsteiger, P.L.L.C., by Elizabeth Horton and Urs R. Gsteiger, and Howard C. Jones, II for plaintiff-appellants/appellees.*

*Folger and Folger, by Fred Folger, Jr., for defendant-appellee/appellant Surry County.*

*Finger, Parker, Avram & Roemer, L.L.P., by Raymond A. Parker, for defendant-appellees Robert Wayne Davis and wife, Glenda K. Davis, and Jerry Allan Allred and wife, Yvonne Davis Allred.*

PER CURIAM.

As to the appeal of right based on the dissenting opinion, we affirm the majority decision of the Court of Appeals. We conclude that the petition for writ of certiorari was improvidently allowed.

AFFIRMED; CERTIORARI IMPROVIDENTLY ALLOWED.