

STATE OF NORTH CAROLINA v. TIMMY WAYNE SPEIGHT

No. 491PA04-2

FILED: 15 DECEMBER 2006

On order of the United States Supreme Court entered 30 June 2006 granting the State's petition for writ of certiorari to review our decision reported in 359 N.C. 602, 614 S.E.2d 262 (2005), vacating said judgment and remanding the case to this Court for further consideration in light of *Washington v. Recuenco*, 548 U.S. \_\_\_, 126 S. Ct. 2546 (2006). Heard on remand in the Supreme Court 17 October 2006.

*Roy Cooper, Attorney General, by Robert C. Montgomery, Special Deputy Attorney General, for the State-appellant.*

*Staples S. Hughes, Appellate Defender, by Barbara S. Blackman, Assistant Appellate Defender, for defendant-appellee.*

PER CURIAM.

Upon reconsideration of this case in light of *Washington v. Recuenco*, 548 U.S. \_\_\_, 126 S. Ct. 2546 (2006), we reverse the judgment of the Court of Appeals insofar as it held defendant's sentence was imposed in violation of the Sixth Amendment to the United States Constitution, 166 N.C. App. 106, 177-18, 602 S.E.2d 4, 12 (2004), and remand to that court for further proceedings not inconsistent with this Court's decision in *State v. Timothy Earl Blackwell*, 361 N.C. \_\_\_, \_\_\_ S.E.2d \_\_\_ (2006) (No. 490PA04-2). However, the portion of the Court of Appeals opinion finding no prejudicial error in defendant's convictions as specified in that opinion remains undisturbed.

AFFIRMED IN PART; REVERSED IN PART AND REMANDED.