

**IN THE COURT OF APPEALS**  
**CASES REPORTED WITH PUBLISHED OPINIONS**  
**(FILED 6 JULY 1999)**  
**(MANDATE 26 JULY 1999)**

Docket #	Title	County	Judge
98-1205-1	Sweet, et al v Boggs (Civil) <b>Decision:</b> Affirmed	Alexander	Horton, Jr.
98-120-1	Freeman v Sugar Mountain Resort (Civil) <b>Decision:</b> Reversed and remanded for trial	Avery	Eagles, Jr.
98-782-1	Aycock v Padgett, et al (Civil) <b>Decision:</b> Affirmed	Buncombe	Lewis, Jr.
98-1267-1	Concrete Machinery v City of Hickory (Civil) <b>Decision:</b> No error in part, reversed in part and remanded	Catawba	Smith
98-822-1	Brisson v Santoriello (Civil) <b>Decision:</b> Reversed and remanded	Cumberland	Timmons-Goodson
98-1148-1	State v Earhart (Criminal) <b>Decision:</b> No error	Currituck	Walker
98-940-1	Duke University Medical v Bruton (Civil) <b>Decision:</b> Affirmed	Guilford	Martin
98-943-1	Bogan v Bogan (Civil) <b>Decision:</b> Affirmed	Guilford	Greene
98-1101-1	Howard v Oakwood Homes Corp. (Civil) <b>Decision:</b> Reversed and remanded	Guilford	Martin
98-1169-1	CBP Resources, Inc. v Mountaire Farms (Civil) <b>Decision:</b> Dismissed and remanded	Guilford	Walker
98-1147-1	Huskins v Huskins (Civil) <b>Decision:</b> Affirmed in part, and reversed in part	McDowell	Horton, Jr.
98-102-1	Hieb, et al v Lowery (Civil) <b>Decision:</b> Affirmed in part, vacated in part, and remanded with instructions	Mecklenburg	John, Sr.
98-1038-1	Lorinovich, et al v K Mart Corporation (Civil) <b>Decision:</b> Reversed and remanded	Mecklenburg	Greene
98-1053-1	Fran's Pecans, Inc. v Greene, et al (Civil) <b>Decision:</b> Affirmed	Mecklenburg	Lewis, Jr.
98-41-1	Lanning v Fieldcrest-Cannon, Inc. (Civil) <b>Decision:</b> Affirmed in part, reversed in part, and remanded	N.C. Industrial Commission	Timmons-Goodson
98-1226-1	Smith v Champion International (Civil) <b>Decision:</b> Affirmed	N.C. Industrial Commission	Hunter

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98-916-1	State v Pierce (Criminal) <b>Decision:</b> Affirmed	Randolph	Greene
98-781-1	State v Smith (Criminal) <b>Decision:</b> No error	Transylvania	Martin
98-436-1	Buckingham v Buckingham (Civil) <b>Decision:</b> Affirmed	Wake	Hunter
98-927-1	In The Matter of: A Declaratory Ruling (Civil) <b>Decision:</b> Reversed	Wake	Martin
98-1023-1	Jones v Winckelmann, et al (Civil) <b>Decision:</b> Vacated and remanded	Wake	Horton, Jr.
98-1266-1	Schnitzlein v Hardee's Food Systems (Civil) <b>Decision:</b> Vacated	Wake	McGee
98-1274-1	In the Matter of: Crawford (Civil) <b>Decision:</b> Affirmed	Wake	Martin

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98-859-1	State v Tyner (Criminal) <b>Decision:</b> Reversed and remanded	Alamance 97CRS16750 97CRS16749	Eagles, Jr.
98-1052-1	Bartlett v Bartlett (Civil) <b>Decision:</b> Affirmed in part; appeal dismissed in part	Alamance 97CVD375	Martin
99-20-1	State v Frye (Criminal) <b>Decision:</b> No error	Alexander 98CRS697700	Martin
98-1381-1	State v Taylor (Criminal) <b>Decision:</b> No error	Beaufort 96CRS2967	Martin
98-1425-1	State v Aldridge (Criminal) <b>Decision:</b> No error	Beaufort 97CRS1352 96CRS6326	Smith
98-1249-1	Hassell, et al v Godwin, et al (Civil) <b>Decision:</b> Dismissed	Bertie 97CVS146	Per Curiam
98-948-1	State v Greene (Criminal) <b>Decision:</b> New trial	Brunswick 96CRS4553	Greene
98-958-1	State v Scott (Criminal) <b>Decision:</b> No error	Brunswick 95CRS4089 95CRS4088	Wynn, Jr.
98-169-1	In The Matter of: Tripp, et al (Civil) <b>Decision:</b> Affirmed	Buncombe 97J58 97J59 97J57 97J60	Timmons-Goodson
98-1026-1	State v Buckner (Criminal) <b>Decision:</b> Dismissed	Buncombe 97CRS130 97CRS51559 97CRS51556 97CRS51560 97CRS129 97CRS51558	Lewis, Jr.
98-1167-1	Pettiford v Brown (Civil) <b>Decision:</b> Affirmed	Buncombe 80CVD1941	Walker
98-1240-1	Conley, et al v J.C. Penney, Inc. (Civil) <b>Decision:</b> Reversed and remanded	Buncombe 97CVS4257	McGee
98-1294-1	State v Messer (Criminal) <b>Decision:</b> Reversed	Buncombe 97CRS66540	Per Curiam
98-1560-1	State v Sartori (Criminal) <b>Decision:</b> 96CRS54809 and 96CRS06111-No error. 96CRS54810-Vacated and remanded for re-sentencing. 96CRS59327 and 97CRS3-Vacated and remanded for resentencing.	Buncombe 96CRS54809 97CRS00003 96CRS54810 96CRS06111 96CRS59327	Martin
98-1434-1	State v Ellis (Criminal) <b>Decision:</b> No error	Catawba 96CRS10853 96CRS10852	Eagles, Jr.

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98-1258-1	State v MacDonald (Criminal)  <b>Decision:</b> No error	Currituck 97CRS894 97CRS895 97CRS893 98CRS289	Eagles, Jr.
98-1461-1	State v Gallop (Criminal)  <b>Decision:</b> No error	Dare 96CRS1083 96CRS1084 96CRS1082 96CRS1085	Eagles, Jr.
98-1537-1	State v Thrash (Criminal)  <b>Decision:</b> No error	Dare 98CRS0322 98CRS0323 98CRS0316	Martin
98-1586-1	Francis v Beach Medical Care, et al (Civil)  <b>Decision:</b> Appeal dismissed	Dare 94CVS248	Smith
98-956-1	State v McCoy (Criminal)  <b>Decision:</b> No error	Davidson 96CRS13795	Lewis, Jr.
98-1621-1	Buchanan v City of Thomasville, Boyd (Civil)       <b>Decision:</b> Appeal dismissed	Davidson 97CVS2409	Smith IT IS HEREBY ORDERED that the opinion filed in this case on 6 July, 1999 be WITHDRAWN. The Clerk of the Court of Appeals is hereby directed not to certify said opinion. The panel to which case was assigned was not made aware that the Plaintiff's Motion to Amend the Record had been allowed, nor that the Addendum to the Record had been filed with this court, and will reconsider the case in the light of the Record as amended. No additional briefs shall be permitted.
98-947-1	State v Batts (Criminal)  <b>Decision:</b> No error	Duplin 97CRS3742 97CRS2997 97CRS3003	Martin
98-1427-1	Smith, et al v Jackson, et al (Civil)  <b>Decision:</b> Affirmed	Durham 93CVD4372	Martin
98-1071-1	Miller v K-Mart Corporation, et al (Civil)  <b>Decision:</b> Appeal dismissed	Forsyth 96CVS998	Martin
98-1336-1	State v Alexander (Criminal)  <b>Decision:</b> No error	Forsyth 97CRS38438 97CRS38436	Smith
98-1632-1	State v Armstrong (Criminal)  <b>Decision:</b> No error	Gaston 94CRS007665 94CRS007666 94CRS007662 94CRS11047	Martin

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97-658-2	Stem v Richardson (Civil) <b>Decision:</b> Reversed in part and affirmed in part	Granville 94CVS654	Smith
98-1590-1	State v Sims (Criminal) <b>Decision:</b> No error	Greene 97CRS113114	Smith
98-1016-1	State v Austin (Criminal) <b>Decision:</b> No error	Guilford 95CRS020679 95CRS929582 95CRS020664 95CRS030326	Lewis, Jr.
98-1075-1	State v Barringer (Civil) <b>Decision:</b> No error	Guilford 98CRS23201 97CRS66765 97CRS67157 98CRS23202 97CRS67155 97CRS67158 97CRS66764 97CRS67156	Lewis, Jr.
98-1268-1	Bradley v U.S. Packaging, Inc. (Civil) <b>Decision:</b> Affirmed	Guilford 95CVS8986	Greene
98-1584-1	State v Brown (Criminal) <b>Decision:</b> No error	Guilford 97CRS75820	Smith
98-1431-1	State v Wilson (Criminal) <b>Decision:</b> No error	Harnett 97CRS1100	Eagles, Jr.
98-1520-1	State v Herrera (Criminal) <b>Decision:</b> No error	Harnett 97CRS14437 97CRS14436	Eagles, Jr.
98-1400-1	State v McMahan (Criminal) <b>Decision:</b> No error	Haywood 97CRS566 97CRS5141 97CRS569 97CRS564 97CRS5612 97CRS567 97CRS5142 97CRS5610 97CRS565 97CRS5140 97CRS568 97CRS5143 97CRS5611	Eagles, Jr.
98-907-1	Batten, et al v Medlin (Civil) <b>Decision:</b> Affirmed	Jackson 95CVS575	Horton, Jr.
98-1437-1	State v Parker (Criminal) <b>Decision:</b> No error	Lenoir 97CRS11931 97CRS6893	Martin
99-80-1	In Re: Justin Michael Creel (Civil) <b>Decision:</b> Affirmed	Lenoir 98J3	Martin
98-1592-1	State v Edwards (Criminal) <b>Decision:</b> No error	Lincoln 93CRS6324 94CRS223224 93CRS6323 94CRS407408	Eagles, Jr.
98-1594-1	State v Jones (Criminal)	Martin 98CRS38	Smith

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	<b>Decision:</b> No error		
98-414-1	Christ Covenant v DS Atlantic Corp.. (Civil)	Mecklenburg 97CVS8846	John, Sr.
	<b>Decision:</b> Reversed		
98-464-1	STC, Inc. v Zickafoose (Civil)	Mecklenburg 97CVS10268	McGee
	<b>Decision:</b> Affirmed		
98-918-1	State v Roberts (Criminal)	Mecklenburg 96CRS47418	Lewis, Jr.
	<b>Decision:</b> No error		
98-999-1	Wynn v Employment Security Commission (Civil)	Mecklenburg 98CVS5440	Walker
	<b>Decision:</b> Affirmed		
98-1096-1	Charlotte-Mecklenburg Hosp. v Bruton (Civil)	Mecklenburg 97CVS14460	Martin
	<b>Decision:</b> Affirmed		
98-1368-1	State v Truesdale (Criminal)	Mecklenburg 97CRS140341 97CRS35436	Smith
	<b>Decision:</b> No error		
98-1097-1	Waga v MSAS Cargo International (Civil)	N.C. Industrial Commission IC652853	Greene
	<b>Decision:</b> Affirmed		
98-1155-1	Harris v Union Camp Corporation (Civil)	N.C. Industrial Commission IC515217	Eagles, Jr.
	<b>Decision:</b> Affirmed		
98-1058-1	State v Ferguson (Criminal)	Onslow 97CRS1515	Greene
	<b>Decision:</b> No error		
98-1084-1	State v Murphy (Criminal)	Pender 96CRS2277 96CRS2276	Walker
	<b>Decision:</b> Affirmed		
98-1187-1	State v Jones (Criminal)	Robeson 96CRS15942 96CRS15946 96CRS15944 96CRS15947 96CRS15939 96CRS15945	Per Curiam
	<b>Decision:</b> Reversed		
98-1259-1	State v Middleton (Criminal)	Rockingham 97CRS3661	Per Curiam
	<b>Decision:</b> Reversed		
98-1547-1	State v Bowker (Criminal)	Sampson 98CRS3932 98CRS3931	Martin
	<b>Decision:</b> No error		
98-1439-1	In The Matter of Sprinkle: Minors (Civil)	Surry 98J2526	Smith
	<b>Decision:</b> Affirmed		
98-128-1	Trico Elec. v City of Raleigh, et al (Civil)	Wake 95CVS5382	Hunter
	<b>Decision:</b> Affirmed in part, reversed in part and remanded.		
98-1010-1	Christopher v NC Board of Therapy (Civil)	Wake 96CVS10384 96CVS05452	Greene
	<b>Decision:</b> Reversed		

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98-1384-1	State v Calderon (Criminal)	Wake 97CRS58830 97CRS58831 97CRS58829 97CRS80218	Smith
	<b>Decision:</b> No error in the trial; remanded for resentencing		
98-1464-1	State v Phengdara (Criminal)	Wake 97CRS29138 97CRS29139 97CRS23185 97CRS29140	Eagles, Jr.
	<b>Decision:</b> No error		
98-1600-1	State v Hedderman (Criminal)	Wake 97CRS91446 97CRS58686	Eagles, Jr.
	<b>Decision:</b> No error		
98-509-1	Human Resources ex rel Lerch v Fralish (Civil)	Watauga 97CVD56	Hunter
	<b>Decision:</b> Affirmed		
98-963-1	Tyndall, et al v NCDOT (Civil)	Wayne 96CVS102	Eagles, Jr.
	<b>Decision:</b> Affirmed		
98-1275-1	Sheek v Pennsylvania National Mutual (Civil)	Yadkin 97CVS470	Greene
	<b>Decision:</b> Affirmed		