

**IN THE COURT OF APPEALS**  
**CASES REPORTED WITH PUBLISHED OPINIONS**  
**(FILED 6 MAY 2003)**  
**(MANDATE 27 MAY 2003)**

| Docket #  | Title   | County                     | Judge           |
|-----------|---|----------------------------|-----------------|
| 02-411-1  | State v Jones (Criminal)<br><b>Decision:</b> New trial in part; vacated in part   | Buncombe                   | Elmore          |
| 02-521-1  | Gifford v Linnell (Civil)<br><b>Decision:</b> Reversed  | Carteret                   | Hunter          |
| 02-231-1  | Pacheco v Rogers and Breece, Inc. (Civil)<br><b>Decision:</b> Affirmed  | Cumberland                 | Levinson        |
| 02-397-1  | Pennsylvania Nat'l v Assoc. Scaffolders (Civil)<br><b>Decision:</b> Affirmed  | Durham                     | Elmore          |
| 02-819-1  | Walden v Vaughn (Civil)<br><b>Decision:</b> Affirmed  | Forsyth                    | Steelman        |
| 02-659-1  | Analog Devices v Michalski (Civil)<br><b>Decision:</b> Affirmed   | Guilford                   | Calabria        |
| 02-958-1  | State v McCracken (Criminal)<br><b>Decision:</b> No error   | Haywood                    | Bryant          |
| 02-798-1  | State v Smith (Criminal)<br><b>Decision:</b> No prejudicial error   | Henderson                  | Wynn, Jr.       |
| 02-936-1  | Eakett v Eakett (Civil)<br><b>Decision:</b> Affirmed in part, reversed in part  | Henderson                  | Eagles, Jr.     |
| 02-264-1  | Kogut v Rosenfeld (Civil)<br><b>Decision:</b> Reversed  | Iredell                    | Wynn, Jr.       |
| 02-971-1  | In Re: Estes (Juvenile - 3.1)<br><b>Decision:</b> Reversed and remanded   | Iredell                    | Timmons-Goodson |
| 02-750-1  | State v Nance (Criminal)<br><b>Decision:</b> No error   | Mecklenburg                | Martin          |
| 02-942-1  | Hunter-McDonald v Edison Foard (Civil)<br><b>Decision:</b> Reversed   | Mecklenburg                | Calabria        |
| 02-1289-1 | State v Partridge (Criminal)<br><b>Decision:</b> Vacated and remanded for imposition of judgment and sentencing on Class 3 misdemeanor possession of marijuana. | Mecklenburg                | Bryant          |
| 02-470-1  | Taylor v Bridgestone/Firestone (Civil)<br><b>Decision:</b> Vacated and remanded   | N.C. Industrial Commission | Bryant          |
| 02-924-1  | Cencomp v Webcon (Civil)<br><b>Decision:</b> Affirmed   | Person                     | Calabria        |

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| 02-595-1  | State v Latham (Criminal)<br><b>Decision:</b> No error   | Pitt    | Hunter     |
| 02-599-1  | Leary v NC Forest Products, Inc. (Civil)<br><b>Decision:</b> Affirmed  | Pitt    | Geer       |
| 02-797-1  | State v McCollum (Criminal)<br><b>Decision:</b> No error   | Robeson | Tyson      |
| 02-474-1  | Lombardi v Lombardi (Civil)<br><b>Decision:</b> Affirmed   | Rowan   | Hudson     |
| 02-484-1  | State v Batchelor (Criminal)<br><b>Decision:</b> No prejudicial error  | Wake    | Hunter     |
| 02-508-1  | Scott v Scott (Civil)<br><b>Decision:</b> Affirmed in part, reversed in part, and remanded                           | Wake    | Levinson   |
| 02-759-1  | Watkins v NC Board of Dental Examiners (Civil)<br><b>Decision:</b> Affirmed  | Wake    | Bryant     |
| 02-770-1  | State v Washington (Criminal)<br><b>Decision:</b> No error   | Wake    | Tyson      |
| 02-872-1  | Castle Worldwide v Southtrust Bank (Civil)<br><b>Decision:</b> Reversed  | Wake    | McCullough |
| 02-995-1  | State v Fowler (Criminal)<br><b>Decision:</b> No error   | Wake    | Martin     |
| 02-1100-1 | CB&I Constructors v Wake Forest (Civil)<br><b>Decision:</b> Vacated in part, dismissed in part, and remanded in part | Wake    | Calabria   |

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| 02-463-1  | In the Matter of: Will of Carlsen (Civil)<br><b>Decision:</b> Reversed and remanded   | Alamance<br>99E988,00CVS665                       | Eagles, Jr. |
| 02-569-1  | State v Pezzuto (Criminal)<br><b>Decision:</b> New trial  | Brunswick<br>00CRS56300                           | Calabria    |
| 02-879-1  | Dzierzynski v Dzierzynski (Civil)<br><b>Decision:</b> Affirmed  | Buncombe<br>99CVD1842                             | McGee       |
| 02-1126-1 | State v Hackler (Criminal)<br><b>Decision:</b> Felonious Larceny: Vacated. Felonious Breaking or Entering: No error; remanded for resentencing. | Buncombe<br>01CRS58200,01CRS6383                  | Martin      |
| 02-482-1  | In the Matter of: Hopkins (Juvenile - 3.1)<br><b>Decision:</b> Vacated and remanded   | Burke<br>98J51                                    | Hunter      |
| 02-854-1  | State v McMillian (Criminal)<br><b>Decision:</b> No error   | Cabarrus<br>00CRS10445,00CRS10443,-<br>00CRS10444 | McGee       |
| 02-624-1  | State v Jones (Criminal)<br><b>Decision:</b> No error   | Caldwell<br>99CRS6316,99CRS6636                   | Calabria    |
| 02-992-1  | In the Matter of: Richardson (Criminal)<br><b>Decision:</b> Affirmed in part; and vacated in part   | Caswell<br>01J40                                  | McCullough  |
| 02-489-1  | State v Blackburn (Criminal)<br><b>Decision:</b> No error   | Catawba<br>01CRS2060,01CRS2061                    | Levinson    |
| 02-525-1  | Henderson v Henderson (Civil)<br><b>Decision:</b> Affirmed in part; reversed in part; and remanded in part for additional findings of fact      | Catawba<br>98CVD2297                              | McGee       |
| 02-1090-1 | Hubbard Telephone v Michigan Mut. Ins. (Civil)<br><b>Decision:</b> Affirmed   | Cherokee<br>99CVS96                               | McCullough  |
| 02-811-1  | State v Deal (Criminal)<br><b>Decision:</b> No error  | Cumberland<br>00CRS62146                          | Steelman    |
| 02-1098-1 | State v Gardner (Criminal)<br><b>Decision:</b> Dismissed  | Davidson<br>01CRS6132                             | Martin      |
| 02-1189-1 | In the Matter of: Davis (Juvenile - 3.1)<br><b>Decision:</b> Affirmed   | Davidson<br>01J68                                 | McCullough  |
| 02-749-1  | Jenkins v Uchebo (Civil)<br><b>Decision:</b> Affirmed   | Durham<br>01CVD3983                               | Hunter      |
| 02-852-1  | State v Philpott (Criminal)<br><b>Decision:</b> No error  | Edgecombe<br>01CRS6605                            | Bryant      |

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| 02-1286-1 | State v Wooten (Criminal)<br><b>Decision:</b>   | Edgecombe<br>00CRS7410                            | Martin          |
| 02-530-1  | Kaplan Companies v Stiles Machinery (Civil)<br><b>Decision:</b> Affirmed              | Forsyth<br>01CVS3447                              | Calabria        |
| 02-927-1  | State v O'Neil (Criminal)<br><b>Decision:</b> Remand for correction of clerical error | Forsyth<br>02CRS50745,02CRS50743,-<br>02CRS50744  | Elmore          |
| 02-970-1  | State v Sprinkle (Criminal)<br><b>Decision:</b> No error                              | Forsyth<br>00CRS58218,00CRS58218,-<br>00CRS58217  | Bryant          |
| 02-1084-1 | State v Johnson (Criminal)<br><b>Decision:</b> No error                               | Forsyth<br>01CRS29181,01CRS55926                  | Martin          |
| 02-1211-1 | State v Davidson (Criminal)<br><b>Decision:</b> No error                              | Forsyth<br>01CRS39122,01CRS60865                  | Martin          |
| 02-844-1  | State v Watts (Criminal)<br><b>Decision:</b> No error                                 | Gaston<br>01CRS7797                               | Martin          |
| 02-914-1  | State v Burts (Criminal)<br><b>Decision:</b> No error                                 | Gaston<br>01CRS19554,01CRS61796                   | Bryant          |
| 02-558-1  | State v Haith (Criminal)<br><b>Decision:</b> No error                                 | Guilford<br>01CRS81347,01CRS81341,-<br>01CRS81345 | Elmore          |
| 02-923-1  | Shaw v PricewaterhouseCoopers (Civil)<br><b>Decision:</b> Affirmed                    | Guilford<br>02CVS4632                             | Bryant          |
| 02-1118-1 | State v Moser (Criminal)<br><b>Decision:</b> No error                                 | Guilford<br>01CRS92977,01CRS23826                 | McCullough      |
| 02-1175-1 | Guilford County ex rel. Cobb v Anthony (Civil)<br><b>Decision:</b> Reversed           | Guilford<br>89CVD989                              | Martin          |
| 02-1334-1 | State v Williams (Criminal)<br><b>Decision:</b> No error                              | Halifax<br>97CRS3533                              | Martin          |
| 02-236-1  | State v Barnes (Criminal)<br><b>Decision:</b> No error                                | Harnett<br>99CRS15492,00CRS10990                  | Timmons-Goodson |
| 02-810-1  | State v Groenewold (Criminal)<br><b>Decision:</b> No prejudicial error                | Haywood<br>01CRS1293                              | Steelman        |
| 02-1190-1 | State v Ginn (Criminal)<br><b>Decision:</b> No error                                  | Haywood<br>02CRS244,02CRS245                      | Elmore          |

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| 02-886-1  | State v Fox (Criminal)<br><b>Decision:</b> No error  | Henderson<br>00CRS55107                                     | Bryant     |
| 02-1204-1 | State v Gilliam (Criminal)<br><b>Decision:</b> No error  | Hertford<br>00CRS50027                                      | McCullough |
| 02-885-1  | State v Benefield (Criminal)<br><b>Decision:</b> Affirmed  | Jones<br>01CRS1111,00CRS50515,01-<br>CRS1110                | Bryant     |
| 02-974-1  | Bystry v Nemet (Civil)<br><b>Decision:</b> Affirmed  | Lee<br>00CVD1072  | Bryant     |
| 02-1108-1 | In the Matter of: Hilton (Criminal)<br><b>Decision:</b> Appeal dismissed                                     | Lee<br>01J80  | McCullough |
| 02-386-1  | State v Parker and Boone (Criminal)<br><b>Decision:</b> No error   | Martin<br>00CRS999  | Martin     |
| 02-553-1  | State v Caldwell (Criminal)<br><b>Decision:</b> No error in Guilt/Innocence Phase. Remanded for resentencing | Mecklenburg<br>98CRS51470                                   | Bryant     |
| 02-874-1  | State v Evans (Criminal)<br><b>Decision:</b> No error  | Mecklenburg<br>00CRS49225,00CRS162332                       | Bryant     |
| 02-1173-1 | State v Gonzales (Criminal)<br><b>Decision:</b> No error   | Mecklenburg<br>01CRS9677,01CRS9675,01-<br>CRS9678,01CRS9676 | Elmore     |
| 02-1247-1 | State v McKinney (Criminal)<br><b>Decision:</b> No error   | Mecklenburg<br>01CRS791,01CRS789,01CRS790                   | Elmore     |
| 02-223-1  | Moore v Lexington (Civil)<br><b>Decision:</b> Reversed and remanded  | N.C. Industrial Commission<br>IC816522                      | McCullough |
| 02-629-1  | Phillips v Herr Construction Company (Civil)<br><b>Decision:</b> Affirmed                                    | N.C. Industrial Commission<br>IC921744                      | Elmore     |
| 02-805-1  | Clark v Sanger Clinic, P.A. (Civil)<br><b>Decision:</b> Affirmed   | N.C. Industrial Commission<br>IC333197                      | Tyson      |
| 02-832-1  | Fox v Wal-Mart Stores, Inc. (Civil)<br><b>Decision:</b> Affirmed   | N.C. Industrial Commission<br>IC049692                      | Wynn, Jr.  |
| 02-836-1  | Trantham v Volvo Construction Equipment (Civil)<br><b>Decision:</b> Appeal dismissed                         | N.C. Industrial Commission<br>IC918613                      | Tyson      |
| 02-1019-1 | State v Davis (Criminal)<br><b>Decision:</b> Affirmed in part, vacated in part                               | New Hanover<br>01CRS57454,01CRS52468                        | Elmore     |

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| 02-1006-1 | State v Newkirk (Criminal)<br><b>Decision:</b> Affirmed   | Onslow<br>01CRS55500   | Bryant      |
| 02-502-1  | Olkowski v Cartwright (Civil)<br><b>Decision:</b> Affirmed  | Pasquotank<br>00CVS476   | Steelman    |
| 02-251-1  | State v Callicutt (Criminal)<br><b>Decision:</b> Affirmed   | Randolph<br>99CRS4122  | Bryant      |
| 02-949-1  | State v Goodwin (Criminal)<br><b>Decision:</b> No error   | Richmond<br>01CRS53031   | Elmore      |
| 02-1212-1 | In Re: Oxendine (Juvenile - 3.1)<br><b>Decision:</b> Affirmed   | Robeson<br>00J29   | McCullough  |
| 02-1501-1 | State v Scales (Criminal)<br><b>Decision:</b> Remanded for entry of a correction of clerical error; in all other respects, no error | Rockingham<br>02CRS50149,02CRS759,02-<br>CRS2158,01CRS51537,02C-<br>RS50193,02CRS1648,02CR-<br>S50148,01CRS51538,02CR-<br>S50197,02CRS2157 | McCullough  |
| 02-1017-1 | State v Lewis (Criminal)<br><b>Decision:</b> No error   | Rowan<br>00CRS5308,00CRS9716,00-<br>CRS9717  | Levinson    |
| 02-719-1  | State v McDonald (Criminal)<br><b>Decision:</b> No prejudicial error  | Union<br>01CRS4088,01CRS4086,01-<br>CRS4087  | Steelman    |
| 02-363-1  | Driver v Bagley (Civil)<br><b>Decision:</b> Reversed  | Wake<br>99CVS6431  | McGee       |
| 02-403-1  | Smith & Sons Paving Company v NC DOT (Civil)<br><b>Decision:</b> Affirmed   | Wake<br>01CVS3264  | Eagles, Jr. |
| 02-751-1  | State v Harris (Criminal)<br><b>Decision:</b> No error  | Wake<br>01CRS13152   | Elmore      |
| 02-1052-1 | State v Muhammad (Criminal)<br><b>Decision:</b> No error  | Wake<br>01CRS113031  | McCullough  |
| 02-862-1  | State v Trujillo (Criminal)<br><b>Decision:</b> No error  | Wayne<br>01CRS50854  | Bryant      |
| 02-888-1  | State v Rouse (Criminal)<br><b>Decision:</b> No error   | Wayne<br>00CRS52024  | Elmore      |
| 02-1010-1 | State v Raiford (Criminal)<br><b>Decision:</b> No error   | Wayne<br>01CRS53605  | Martin      |

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| 02-1291-1 | State v Armistead (Criminal) | Yadkin<br>99CRS3163,99CRS2524,99-<br>CRS3164,99CRS3162 | Bryant |
|           | <b>Decision:</b> Affirmed    |  |        |