

**IN THE COURT OF APPEALS**  
**CASES REPORTED WITH PUBLISHED OPINIONS**  
**(FILED 6 SEPTEMBER 2005)**  
**(MANDATE 26 SEPTEMBER 2005)**

Docket #	Title	County	Judge
04-1242-1	Whitings v Wolfson Casing Corp. (Civil) <b>Decision:</b> Affirmed	Bladen	Elmore
04-1374-1	Prop. Rights Advocacy Grp. v Long Beach (Civil) <b>Decision:</b> Dismissed	Brunswick	Levinson
04-1150-1	In Re: P.L.P. (Juvenile - 3.1) <b>Decision:</b> Affirmed	Buncombe	Levinson
04-1540-1	City of Concord v Stafford (Civil) <b>Decision:</b> Affirmed	Cabarrus	Jackson
04-1570-1	Freeman v Food Lion, et al (Civil) <b>Decision:</b> Affirmed in part; Reversed and remanded in part	Cumberland	Jackson
04-925-1	State v Goblet (Criminal) <b>Decision:</b> No error in part; vacated in part	Dare	Jackson
03-1608-1	Beroth Oil Co. v Whiteheart (Civil) <b>Decision:</b> No error	Forsyth	Martin
04-588-1	State v Windley (Criminal) <b>Decision:</b> First Degree Murder-New Trial. Conspiracy to traffic cocaine-no error.	Forsyth	Martin
04-601-1	State v Verrier (Criminal) <b>Decision:</b> No error at trial; remanded for resentencing	Forsyth	Timmons-Goodson
04-1337-1	Charter Medical v Zigmed (Civil) <b>Decision:</b> Affirmed	Forsyth	Elmore
04-537-1	State v Bethea (Criminal) <b>Decision:</b> No error	Guilford	Jackson
04-1204-1	In Re: T.W., L.W., E.H. (Juvenile - 3.1) <b>Decision:</b> Reversed and remanded	Harnett	Jackson
04-1313-1	State v Octetree (Criminal) <b>Decision:</b> No error	Henderson	Tyson
04-302-2	Swift v Richardson Sports, LTD (Civil) <b>Decision:</b> Affirmed in part, reversed in part, and remanded	N.C. Industrial Commission	McCullough
04-1100-1	State v Langley (Criminal) <b>Decision:</b> Vacated in part; No error in part	Pitt	Elmore
04-1494-1	Gordon v NC DOC (Civil) <b>Decision:</b> Affirmed	Pitt	Tyson

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03-740-1	State v McBride (Criminal) <b>Decision:</b> No prejudicial error in part, remanded for clerical changes and resentencing	Richmond	McCullough
04-1159-1	State v Borkar (Criminal) <b>Decision:</b> New trial	Swain	Hunter
04-894-1	Munn v NCSU (Civil) <b>Decision:</b> Vacated and remanded for a new trial on damages only	Wake	Hunter
04-941-1	In Re: A.B.D. (Juvenile - 3.1) <b>Decision:</b> Reversed	Wake	Wynn, Jr.
04-1065-1	American Treasures v State of N.C. (Civil) <b>Decision:</b> Affirmed in part and vacated in part	Wake	Calabria
04-1077-1	State v Tuck (Criminal) <b>Decision:</b> No error	Wake	Timmons-Goodson
04-1413-1	Gorsuch v Dees (Civil) <b>Decision:</b> Affirmed	Wake	Wynn, Jr.

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04-289-1	State v Sellars (Criminal)  <b>Decision:</b> Remanded for resentencing	Alamance 99CRS56320,99CRS56319,0-0CRS1256	Calabria
04-767-1	State v Jacobs (Criminal)  <b>Decision:</b> Dismissed in part, no error in part	Alamance 03CRS56303	Jackson
04-887-1	State v Caples, et al (Criminal)  <b>Decision:</b> No error at trial; remanded for resentencing	Alamance 03CRS56792,03CRS56601,0-3CRS56793,03CRS56607	Bryant
04-610-1	State v Ingram (Criminal)  <b>Decision:</b> No error in trial; remanded for resentencing	Anson 01CRS50984,02CRS1072	McCullough
04-374-1	State v Smith (Criminal)  <b>Decision:</b> No error	Buncombe 02CRS15846	Geer
05-208-1	In Re: J.A.D. & A.L.D. (Juvenile - 3.1)  <b>Decision:</b> Affirmed	Buncombe 96J412	Steelman
04-1712-1	State v Carter (Criminal)  <b>Decision:</b> No error	Cabarrus 04CRS10863,04CRS51458	Jackson
04-1665-1	State v Breland (Criminal)  <b>Decision:</b> No error	Caldwell 01CRS9603	Steelman
04-1486-1	In the Matter of: I.N.P. (Juvenile - 3.1)  <b>Decision:</b> Dismissed	Catawba 99J109	Hudson
05-5-1	State v Callahan (Criminal)  <b>Decision:</b> No error	Cleveland 03CRS1029	Steelman
05-61-1	State v McLean (Criminal)  <b>Decision:</b> Affirmed	Cumberland 02CRS66870	Steelman
05-233-1	State v Smith (Criminal)  <b>Decision:</b> Dismissed	Cumberland 02CRS60679	Steelman
04-1192-1	State v Floyd (Criminal)  <b>Decision:</b> Dismissed	Davidson 03CRS8820,03CRS56598	Hudson
05-97-1	State v Nelson (Criminal)  <b>Decision:</b> Affirmed	Davidson 02CRS55316,02CRS55319,0-2CRS55314,02CRS55317,02-CRS55315,02CRS55318	Steelman
04-1427-1	Investors Title Ins. v Sturdivant (Civil)  <b>Decision:</b> Affirmed	Durham 03CVS402	Hunter
04-1478-1	In Re: H.M.L. (Juvenile - Criminal)	Durham 04J102	Tyson

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	<b>Decision:</b> Affirmed		
04-1378-1	State v Cox (Criminal)	Forsyth 02CRS53243	McCullough
	<b>Decision:</b> No error		
04-1493-1	State v Barksdale (Criminal)	Forsyth 03CRS58399,03CRS58405,0- 3CRS57277,03CRS58401,03- CRS58406,03CRS58398,03C- RS58402	Hudson
	<b>Decision:</b> No error		
04-1502-1	State v Cary (Criminal)	Forsyth 02CRS63910,03CRS16574	Bryant
	<b>Decision:</b> No error		
04-1733-1	State v Caeser (Criminal)	Forsyth 02CRS23425	Hudson
	<b>Decision:</b> No error		
05-157-1	In Re: E.F.C.K. & C.F.W. (Juvenile - 3.1)	Forsyth 03J271,03J272	Steelman
	<b>Decision:</b> Affirmed		
04-1693-1	State v Hargett (Criminal)	Gaston 00CRS66238,00CRS66242	Hudson
	<b>Decision:</b> Affirmed		
05-46-1	State v Currie (Criminal)	Granville 03CRS51956	Steelman
	<b>Decision:</b> No error		
04-1542-1	State v Abonza (Criminal)	Guilford 01CRS77202,01CRS77203	Hudson
	<b>Decision:</b> Dismissed		
04-1553-1	State v Martin (Criminal)	Henderson 03CRS2280,03CRS2281	Steelman
	<b>Decision:</b> No error		
04-1351-1	State v Roberts (Criminal)	Lenoir 00CRS4217,00CRS8354	Hunter
	<b>Decision:</b> No error		
05-10-1	State v Massenburg (Criminal)	Lenoir 04CRS50260	Steelman
	<b>Decision:</b> No error		
04-586-1	State v Hampton (Criminal)	Mecklenburg 02CRS248812	Bryant
	<b>Decision:</b> No error		
04-922-1	In Re: T.G. & R.J. (Juvenile - 3.1)	Mecklenburg 02J1172,02J1173	Jackson
	<b>Decision:</b> Affirmed		
04-1308-1	State v McKinnon (Criminal)	Mecklenburg 02CRS247956	Hudson
	<b>Decision:</b> No error		
04-1402-1	Stenger v Spagnoli (Civil)	Mecklenburg 00CVS14707	Levinson
	<b>Decision:</b> Reverse		
04-1424-1	State v Bloomfield (Criminal)	Mecklenburg 03CR235909	Hudson

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	<b>Decision:</b> New trial		
05-11-1	State v Mathis (Criminal)	Mecklenburg 03CRS210581,03CRS210579- ,03CRS210580	Steelman
	<b>Decision:</b> No error		
04-118-2	Zbytniuk v ABF Freight Systems, Inc. (Civil)	N.C. Industrial Commission IC844352	Calabria
	<b>Decision:</b> Affirmed		
04-693-1	Torres v Smith & Greene, Co. (Civil)	N.C. Industrial Commission IC164967	Hudson
	<b>Decision:</b> Affirmed		
04-1055-1	Baker v Wal-Mart Stores, Inc. (Civil)	N.C. Industrial Commission IC846590,IC940150	Calabria
	<b>Decision:</b> Affirmed		
04-1258-1	Walker v NC DOT (Civil)	N.C. Industrial Commission ICTA16103	McCullough
	<b>Decision:</b> Affirmed		
04-1445-1	Hunt v NC DOC (Civil)	N.C. Industrial Commission IC959439	McCullough
	<b>Decision:</b> Affirmed		
04-1451-1	Foy v Interstate Brands (Civil)	N.C. Industrial Commission IC173499	Bryant
	<b>Decision:</b> Affirmed		
04-996-1	State v Cowee Mountain Imp. Assoc. (Civil)	N.C. Utilities Commission W1202SUB0	Bryant
	<b>Decision:</b> Dismissed		
04-1409-1	Harris v Harris (Civil)	Nash 00CVD369	Timmons-Goodson
	<b>Decision:</b> Affirmed in part; reversed in part		
04-1183-1	State v Suell (Criminal)	New Hanover 03CRS2432,03CRS2427,03C- RS832,03CRS2430,03CRS24- 25,03CRS828,03CRS2428,03- CRS2123,03CRS2431,03CR- S2426,03CRS831,03CRS242- 9,03CRS2416	Geer
	<b>Decision:</b> No error		
04-1284-1	State v Tindall (Criminal)	New Hanover 3CRS56722,3CRS56723	Levinson
	<b>Decision:</b> No error in part, reversed in part		
05-9-1	State v Brodie (Criminal)	New Hanover 04CRS4178,04CRS4173,04C- RS4181,04CRS4176,04CRS4- 171,04CRS4179,04CRS4174,- 04CRS4177,04CRS4172,04C- RS4180,04CRS4175	Steelman
	<b>Decision:</b> Affirmed		
05-96-1	State v Mackey (Criminal)	New Hanover 03CRS21321,02CRS19669,0- 2CRS23729,02CRS19667,02- CRS23727,03CRS21320,02C- RS19668,02CRS23728	Steelman
	<b>Decision:</b> Affirmed		

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04-1560-1	State v Leary (Criminal) <b>Decision:</b> No error	Pasquotank 03CRS51684	Steelman
05-232-1	State v Avery (Criminal) <b>Decision:</b> Affirmed	Person 02CRS52965,04CRS1994,02- CRS3058,02CRS53528,04CR- S1995,02CRS52792,02CRS53576	Steelman
04-1083-1	State v Batts (Criminal) <b>Decision:</b> No error	Pitt 01CRS59405,02CRS1596	Bryant
04-1470-1	Leary v N.C. Forest Products (Civil) <b>Decision:</b> Affirmed	Pitt 89CVD1966	Hudson
04-1584-1	State v Mullins (Criminal) <b>Decision:</b> Affirmed	Pitt 04CRS7568	Hudson
04-396-1	State v Scott (Criminal) <b>Decision:</b> Remanded for resentencing	Richmond 00CRS50658,00CRS50649,0- 0CRS50654	Calabria
04-1549-1	State v Hinson (Criminal) <b>Decision:</b> New trial	Robeson 99CRS16034	Elmore
05-237-1	State v Bryant (Criminal) <b>Decision:</b> No error	Robeson 02CRS53726	Steelman
05-126-1	State v Franklin (Criminal) <b>Decision:</b> No error	Rutherford 03CRS54338	Steelman
04-294-1	State v Hernandez-Madrid (Criminal) <b>Decision:</b> Affirmed in part; Remanded for resentencing in part	Wake 02CRS51222,02CRS209,02C- RS51225,02CRS51220	Wynn, Jr.
04-1340-1	State v Powell (Criminal) <b>Decision:</b> Affirm	Wake 02CRS69526,02CRS42138,0- 2CRS28979	Bryant
04-1602-1	State v Davis (Criminal) <b>Decision:</b> Remanded	Wake 03CRS52844,03CRS52845	Levinson
04-1526-1	In Re: D.R.M.,S.S.M.,T.D.M. (Juvenile - 3.1) <b>Decision:</b> Affirmed	Wayne 03J179,03J177,03J178	Tyson
04-488-1	State v Witsher (Criminal) <b>Decision:</b> Remanded for resentencing	Wilkes 02CRS51765,02CRS51760,0- 2CRS51755,02CRS51763,02- CRS51758,02CRS51236,02C- RS51761,02CRS51756,02CR- S51764,02CRS51759,02CRS- 51754,02CRS51762,02CRS51757	Wynn, Jr.