

**IN THE COURT OF APPEALS**  
**CASES REPORTED WITH PUBLISHED OPINIONS**  
**(FILED 5 JULY 2006)**  
**(MANDATE 25 JULY 2006)**

| Docket #  | Title  | County      | Judge     |
|-----------|--|-------------|-----------|
| 05-1414-1 | State v Pickard (Criminal)<br><b>Decision:</b> Affirmed  | Alamance    | Wynn, Jr. |
| 05-1316-1 | In the Matter of: L.A.B. (Juvenile - 3.1)<br><b>Decision:</b> Affirmed   | Durham      | Geer      |
| 05-871-1  | Finger v Gaston County (Civil)<br><b>Decision:</b> Affirmed  | Gaston      | Geer      |
| 05-1259-1 | Blair v Robinson (Civil)<br><b>Decision:</b> Reversed  | Gaston      | Hunter    |
| 05-1423-1 | Setliff v Subway Real Estate (Civil)<br><b>Decision:</b> Affirmed  | Guilford    | Wynn, Jr. |
| 05-961-1  | Webb v Nicholson (Civil)<br><b>Decision:</b> Affirmed  | Jackson     | Hudson    |
| 05-1027-1 | In the Matter of: K.D. (Juvenile - 3.1)<br><b>Decision:</b> Affirmed in part, reversed in part, and remanded   | Johnston    | Geer      |
| 05-938-1  | Squires v Squires (Civil)<br><b>Decision:</b> Affirmed in part, reversed in part, vacated in part and remanded | Mecklenburg | Hudson    |
| 05-1201-1 | State v Laney (Criminal)<br><b>Decision:</b> No error in part; VACATED in part                                 | Mecklenburg | Jackson   |
| 05-1369-1 | Kennedy v Speedway Motorsports (Civil)<br><b>Decision:</b> Affirmed  | Mecklenburg | McGee     |
| 05-1370-1 | Prosser v Speedway Motorsports (Civil)<br><b>Decision:</b> Affirmed  | Mecklenburg | McGee     |
| 05-1371-1 | Nash v Speedway Motorsports (Civil)<br><b>Decision:</b> Affirmed   | Mecklenburg | McGee     |
| 05-1372-1 | Stephens v Speedway Motorsports (Civil)<br><b>Decision:</b> Affirmed   | Mecklenburg | McGee     |
| 05-1458-1 | Woodle v Onslow County ABC Board (Civil)<br><b>Decision:</b> Reversed and remanded                             | Onslow      | Hunter    |
| 05-1127-1 | State v Mewborn (Criminal)<br><b>Decision:</b> No prejudicial error  | Pitt        | McGee     |
| 05-1326-1 | Lovin v Byrd (Civil)<br><b>Decision:</b> Affirmed  | Richmond    | Calabria  |

| Docket #  | Title  | County     | Judge    |
|-----------|--|------------|----------|
| 05-889-1  | City of Lumberton v U.S. Cold Storage (Civil)<br><b>Decision:</b> Affirmed in part and reversed and remanded in part     | Robeson    | Calabria |
| 05-1373-1 | State v Blankenship (Criminal)<br><b>Decision:</b> New trial   | Rutherford | Jackson  |
| 05-711-1  | State v Orteiz (Criminal)<br><b>Decision:</b> No error   | Wake       | McGee    |
| 05-849-1  | Hammel v USF Dugan (Civil)<br><b>Decision:</b> Affirmed  | Wake       | Hudson   |
| 05-1253-1 | Wilkins v NC State Univ. (Civil)<br><b>Decision:</b> Reversed  | Wake       | Hunter   |
| 05-771-1  | In the Matter of the Will of Yelverton (Civil)<br><b>Decision:</b> Case No. COA05-771-Dismissed.                         | Wayne      | Geer     |
| 05-772-1  | In the Matter of the Will of Yelverton (Civil)<br><b>Decision:</b> Case No. COA05-772-No error in part; Affirmed in part | Wayne      | Geer     |

**IN THE  
COURT OF APPEALS**

**CASES REPORTED WITHOUT PUBLISHED OPINIONS**

**(FILED 5 JULY 2006)  
(MANDATE 25 JULY 2006)**

| Docket #  | Title  | County  | Judge      |
|-----------|--|---|------------|
| 05-1133-1 | In the Matter of: J.O.J. (Juvenile - Criminal)<br><b>Decision:</b> Affirmed, remanded in part for correction of clerical error | Alamance<br>99J7003   | Hunter     |
| 05-1532-1 | In the Matter of: C.C. and H.P. (Juvenile - 3.1)<br><b>Decision:</b> Affirmed  | Alamance<br>04J137 04J138   | Bryant     |
| 05-1552-1 | State v Alston (Criminal)<br><b>Decision:</b> No error   | Alamance<br>04CRS58611 04CRS58614<br>04CRS23566 04CRS58612<br>04CRS58608 04CRS58613   | Hudson     |
| 05-1599-1 | State v Speller (Criminal)<br><b>Decision:</b> No error  | Beaufort<br>04CRS51691 04CRS51692   | Hudson     |
| 05-1207-1 | Ulin v Ulin (Civil)<br><b>Decision:</b> Dismissed  | Brunswick<br>03CVD584   | Levinson   |
| 05-1526-1 | State v Harris (Criminal)<br><b>Decision:</b> Affirmed   | Brunswick<br>04CRS56185 04CRS55935<br>04CRS56183 04CRS55826<br>04CRS55830 04CRS56032<br>04CRS56184 04CRS55827<br>04CRS56121 | Steelman   |
| 05-1112-1 | State v House (Criminal)<br><b>Decision:</b> Dismissed   | Buncombe<br>04CRS64239  | Hunter     |
| 05-1344-1 | State v Thaxton (Criminal)<br><b>Decision:</b> New trial   | Buncombe<br>03CRS53975 04CRS63018   | Wynn, Jr.  |
| 05-1483-1 | In the Matter of: H.S.M. (Juvenile - 3.1)<br><b>Decision:</b> Affirmed   | Buncombe<br>04J236 04J237   | McCullough |
| 05-1468-1 | State v Harrison (Criminal)<br><b>Decision:</b> No error   | Burke<br>04CRS3069  | Hudson     |
| 05-1484-1 | Overcash Gravel v Wahl (Civil)<br><b>Decision:</b> Dismissed   | Cabarrus<br>04CVS1068   | Bryant     |
| 05-1193-1 | State v Driver (Criminal)<br><b>Decision:</b> No error   | Carteret<br>05CRS50120  | Hudson     |
| 05-1407-1 | State v Clark (Criminal)<br><b>Decision:</b> No error  | Cherokee<br>03CRS51800 03CRS51802   | Steelman   |
| 05-1180-1 | State v Gillikin (Criminal)<br><b>Decision:</b> No error   | Craven<br>04CRS55127 04CRS7470<br>04CRS7471   | Hunter     |
| 05-1454-1 | State v George (Criminal)  | Craven<br>03CRS52717  | Hudson     |

| Docket #  | Title  | County   | Judge      |
|-----------|--|--|------------|
|           | <b>Decision:</b> No error  |  |            |
| 05-1443-1 | In the Matter of: T.T.L. (Juvenile - Criminal)   | Durham<br>04J114   | Steelman   |
|           | <b>Decision:</b> Dismissed   |  |            |
| 05-1385-1 | State v Everette (Criminal)  | Edgecombe<br>03CRS7003 03CRS7001<br>03CRS7004 03CRS7002  | Steelman   |
|           | <b>Decision:</b> No error  |  |            |
| 05-643-1  | State v Scales (Criminal)  | Forsyth<br>03CRS63172  | Elmore     |
|           | <b>Decision:</b> No error  |  |            |
| 05-1128-1 | State v Richardson (Criminal)  | Forsyth<br>04CRS62833  | Hunter     |
|           | <b>Decision:</b> No error  |  |            |
| 05-1218-1 | State v Stephens (Criminal)  | Forsyth<br>04CRS57426 04CRS35977   | Wynn, Jr.  |
|           | <b>Decision:</b> No error  |  |            |
| 05-1223-1 | State v Graham (Criminal)  | Forsyth<br>03CRS14599 03CRS56458   | Steelman   |
|           | <b>Decision:</b> No error  |  |            |
| 05-1265-1 | State v Young (Criminal)   | Forsyth<br>04CRS54541 04CRS11386<br>04CRS54540   | McCullough |
|           | <b>Decision:</b> No error  |  |            |
| 05-1467-1 | State v Witherspoon (Criminal)   | Forsyth<br>04CRS8843 04CRS51939  | McCullough |
|           | <b>Decision:</b> No error  |  |            |
| 05-1476-1 | State v Ross (Criminal)  | Forsyth<br>03CRS55132 03CRS27450   | Hudson     |
|           | <b>Decision:</b> No error  |  |            |
| 05-1530-1 | State v Crosby (Criminal)  | Forsyth<br>04CRS60269  | Hudson     |
|           | <b>Decision:</b> No error; petition for Writ of Certiorari denied  |  |            |
| 05-1627-1 | State v Boone (Criminal)   | Forsyth<br>04CRS59348 04CRS63106   | Steelman   |
|           | <b>Decision:</b> No error  |  |            |
| 05-1296-1 | State v Cooper (Criminal)  | Gaston<br>03CRS55035 02CRS54985  | McCullough |
|           | <b>Decision:</b> Case No.02CRS54985-Affirmed. Case No.03CRS55035-Affirmed; remanded for correction of judgment |  |            |
| 05-1508-1 | State v Frankum (Criminal)   | Gaston<br>05CRS11466 05CRS11461<br>04CRS63415-36<br>05CRS11464 05CRS11459<br>05CRS11467 05CRS11462<br>05CRS11465 05CRS11460<br>05CRS11468 05CRS11463 | Steelman   |
|           | <b>Decision:</b> Affirmed  |  |            |
| 05-1442-1 | IN RE: W.D.S. (Juvenile - 3.1)   | Graham<br>04J9   | Hunter     |
|           | <b>Decision:</b> Affirmed  |  |            |
| 05-1047-1 | State v Rogers (Criminal)  | Guilford<br>04CRS93602   | McCullough |

| Docket #  | Title   | County   | Judge      |
|-----------|---|--|------------|
|           | <b>Decision:</b> No error   |  |            |
| 05-1324-1 | State v Crawford (Criminal)   | Guilford<br>01CRS105092 02CRS23075                       | Steelman   |
|           | <b>Decision:</b> No error   |  |            |
| 05-732-1  | State v Fitzgerald (Criminal)   | Johnston<br>03CRS53978                                   | Elmore     |
|           | <b>Decision:</b> No error   |  |            |
| 05-1349-1 | In the Matter of: H.C. and G.C. (Juvenile - 3.1)  | Lee<br>01J52 04J91 04J92                                 | Bryant     |
|           | <b>Decision:</b> Affirmed as to the denial of the new trial motion and adjudication of neglect and dependency as to grandfather. Reversed as to the adjudication of neglect and dependency as to the grandmother. |  |            |
| 05-1262-1 | State v Bowman (Criminal)   | McDowell<br>02CRS53620 02CRS3854                         | Steelman   |
|           | <b>Decision:</b> No error   |  |            |
| 05-1691-1 | State v Day (Criminal)  | McDowell<br>03CRS54707 03CRS54774                        | Hudson     |
|           | <b>Decision:</b> No error   |  |            |
| 05-1024-1 | State v Williams (Criminal)   | Mecklenburg<br>02CRS200485<br>02CRS200469<br>02CRS200470 | McCullough |
|           | <b>Decision:</b> No error   |  |            |
| 05-1352-1 | State v Castano (Criminal)  | Mecklenburg<br>04CRS239984<br>04CRS239985                | Bryant     |
|           | <b>Decision:</b> No prejudicial error   |  |            |
| 05-1462-1 | State v Blair (Criminal)  | Mecklenburg<br>04CRS14736 03CRS248566<br>03CRS248567     | Bryant     |
|           | <b>Decision:</b> No error   |  |            |
| 05-1505-1 | Level 3 Communications v Couch (Civil)  | Mecklenburg<br>00SP815                                   | McCullough |
|           | <b>Decision:</b> Affirm   |  |            |
| 05-1523-1 | State v Davis (Criminal)  | Mecklenburg<br>04CRS30722 04CRS30723                     | Steelman   |
|           | <b>Decision:</b> No error   |  |            |
| 05-787-1  | Davis v Continental Tire (Civil)  | N.C. Industrial Commission<br>IC811985                   | Calabria   |
|           | <b>Decision:</b> Affirmed   |  |            |
| 05-1302-1 | Jefferson v Waste Industries (Civil)  | N.C. Industrial Commission<br>IC323983                   | Hunter     |
|           | <b>Decision:</b> Affirmed   |  |            |
| 05-1356-1 | Quesenberry v Big Creek Underground (Civil)   | N.C. Industrial Commission<br>IC276369                   | McCullough |
|           | <b>Decision:</b> Affirmed; remanded for consideration of defendants' motion for attorneys' fees   |  |            |
| 05-1408-1 | Dodrill v Rhyne's Collision Repair (Civil)  | N.C. Industrial Commission<br>IC331691                   | McGee      |
|           | <b>Decision:</b> Affirmed   |  |            |
| 05-1198-1 | State v Johnson (Criminal)  | New Hanover<br>03CRS64674 03CRS64687                     | Steelman   |
|           | <b>Decision:</b> No error   |  |            |

| Docket #  | Title   | County   | Judge      |
|-----------|---|--|------------|
| 05-1200-1 | State v Hicks (Criminal)<br><b>Decision:</b> No error                         | New Hanover<br>04CRS51966  | McCullough |
| 05-1485-1 | State v Scott (Criminal)<br><b>Decision:</b> No error                         | New Hanover<br>04CRS51671  | Bryant     |
| 06-43-1   | State v Lachiusa (Criminal)<br><b>Decision:</b> No error                      | Pamlico<br>03CRS50246  | McCullough |
| 05-1678-1 | State v Fennell (Criminal)<br><b>Decision:</b> Affirmed                       | Pender<br>05CRS4711  | Steelman   |
| 05-1281-1 | State v Moss (Criminal)<br><b>Decision:</b> No error                          | Person<br>02CRS51491 02CRS145  | McCullough |
| 05-1239-1 | State v Skinner (Criminal)<br><b>Decision:</b> No error                       | Richmond<br>05CRS50191   | Steelman   |
| 05-1447-1 | State v King (Criminal)<br><b>Decision:</b> No prejudicial error              | Rockingham<br>04CRS2137 04CRS2135<br>04CRS2138 04CRS2136   | McCullough |
| 05-1323-1 | In the Matter of: Wade (Civil)<br><b>Decision:</b> Dismissed                  | Rowan<br>03E460  | Hunter     |
| 05-1325-1 | Flahive v RMA Home Services (Civil)<br><b>Decision:</b> Dismissed             | Rowan<br>03CVS1564   | Jackson    |
| 05-1171-1 | State v McKenzie (Criminal)<br><b>Decision:</b> No error                      | Scotland<br>04CRS50394   | Hunter     |
| 05-1361-1 | State v Joyner (Criminal)<br><b>Decision:</b> No error                        | Surry<br>05CRS1619   | Steelman   |
| 05-1194-1 | State v Sturdivant (Criminal)<br><b>Decision:</b> No error                    | Union<br>03CRS51234 03CRS51229<br>03CRS51237 03CRS51232<br>03CRS51227 03CRS51235<br>03CRS51230 03CRS51233<br>03CRS51228 03CRS51236<br>03CRS51231 | Steelman   |
| 05-884-1  | Hy-Tech Constr. v Wake County BOE (Civil)<br><b>Decision:</b> Affirmed        | Wake<br>04CVS388   | Hudson     |
| 05-1455-1 | State v Lynch (Criminal)<br><b>Decision:</b> No error                         | Wake<br>04CRS43834   | Steelman   |
| 05-1664-1 | In the Matter of: WGR, EMK, MAK (Juvenile - 3.1)<br><b>Decision:</b> Affirmed | Wake<br>05J200   | Steelman   |
| 05-1380-1 | Joyce v Daimlerchrysler (Civil)   | Watauga<br>04CVS309  | Wynn, Jr.  |

| Docket #  | Title   | County  | Judge      |
|-----------|---|---|------------|
|           | <b>Decision:</b> Reversed and remanded  |   |            |
| 05-990-1  | In the Matter of: E.J.C. (Juvenile - 3.1)   | Wayne<br>04J194                                       | Levinson   |
|           | <b>Decision:</b> Affirmed   |   |            |
| 05-992-1  | State v McAdams (Criminal)  | Wayne<br>04CRS54785                                   | Hudson     |
|           | <b>Decision:</b> No error   |   |            |
| 05-1357-1 | State v Ford (Criminal)   | Wayne<br>04CRS1035 03CRS60511<br>04CRS3959 04CRS50435 | McCullough |
|           | <b>Decision:</b> No error at trial; reversed and remanded for a new habitual felon hearing. |   |            |
| 05-1489-1 | In the Matter of: C.E.E. (Juvenile - 3.1)   | Yancey<br>98J72                                       | Steelman   |
|           | <b>Decision:</b> Affirmed   |   |            |