

**IN THE COURT OF APPEALS**  
**CASES REPORTED WITH PUBLISHED OPINIONS**  
**(FILED 16 AUGUST 2011)**  
**(MANDATE 6 SEPTEMBER 2011)**

| Docket #  | Title                                                                                                                                 | County      | Judge                                   |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------------------------|
| 10-1030-1 | State v Khouri (Criminal)<br><b>Decision:</b> Vacated in part; No error in part                                                       | Avery       | Stroud                                  |
| 10-384-1  | Fairfield Harbour Property Owners Assoc., Inc. v<br>MidSouth Golf, LLC (Civil)<br><b>Decision:</b> Affirmed                           | Craven      | Beasley                                 |
| 10-1481-1 | Havelock Yacht Club, Inc. v Crystal Lake Yacht Club,<br>Inc. (Civil)<br><b>Decision:</b> Affirmed                                     | Craven      | Calabria<br>Cressie H. Thigpen, Jr. (d) |
| 10-1617-1 | Point Intrepid, LLC, et al v Farley (Civil)<br><b>Decision:</b> Affirmed in Part and Reversed in Part                                 | Cumberland  | Hunter, Jr.                             |
| 10-1476-1 | In The Matter Of: D.B. (Juvenile - Criminal)<br><b>Decision:</b> Affirmed in part; vacated in part; reversed and<br>remanded in part. | Durham      | Geer                                    |
| 10-1500-1 | Smith, et al v County of Durham (Civil)<br><b>Decision:</b> Affirmed                                                                  | Durham      | Ervin, IV                               |
| 10-196-2  | Branch Banking and Trust Company v Chicago Title<br>Insurance Company (Civil)<br><b>Decision:</b> Affirmed                            | Forsyth     | McGee                                   |
| 10-577-1  | Health Management Associates, Inc., et al v Yerby, et al<br>(Civil)<br><b>Decision:</b> Affirmed                                      | Franklin    | Steelman                                |
| 10-927-1  | Fisher, et al v Communication Workers Of America, et al<br>(Civil)<br><b>Decision:</b> Affirmed                                       | Gaston      | Stroud                                  |
| 10-1134-1 | State v Arrington (Criminal)<br><b>Decision:</b> No Error                                                                             | Harnett     | Elmore                                  |
| 10-738-1  | State v Williams (Criminal)<br><b>Decision:</b> Affirmed                                                                              | Iredell     | Beasley<br>Linda McGee (d)              |
| 10-967-1  | Batesville Casket Company, Inc. v Wings Aviation, Inc.<br>(Civil)<br><b>Decision:</b> Dismissed in part; Reversed in part             | Jackson     | Stroud                                  |
| 10-1477-1 | Capps, et al v City of Kinston (Civil)<br><b>Decision:</b> Affirmed in part; remanded in part                                         | Lenoir      | McGee                                   |
| 10-1090-1 | Barfield, et al v Matos (Civil)<br><b>Decision:</b> Affirmed                                                                          | Mecklenburg | Stroud                                  |
| 10-1590-1 | State v Louali (Criminal)<br><b>Decision:</b> No Error                                                                                | Mecklenburg | Bryant                                  |

| Docket #  | Title                                                                                                                                                          | County      | Judge                               |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------------------------------|
| 11-7-1    | State v Castaneda (Criminal)<br><b>Decision:</b> No Error                                                                                                      | Mecklenburg | Hunter                              |
| 10-1143-1 | State v White (Criminal)<br><b>Decision:</b> Reversed                                                                                                          | Moore       | Hunter, Jr.                         |
| 10-1044-1 | State v Flaughner (Criminal)<br><b>Decision:</b> No Error                                                                                                      | New Hanover | Geer                                |
| 10-1610-1 | Green, et al v Fishing Piers, Inc., et al (Civil)<br><b>Decision:</b> Affirmed                                                                                 | New Hanover | McGee                               |
| 10-1410-1 | State v Johnson (Criminal)<br><b>Decision:</b> No Error                                                                                                        | Onslow      | McGee                               |
| 10-1159-1 | Happ v Creek Pointe Homeowners Association (Civil)<br><b>Decision:</b> Affirmed                                                                                | Pamlico     | Hunter, Jr.                         |
| 10-1578-1 | State v Seymore (Criminal)<br><b>Decision:</b> New Trial                                                                                                       | Pasquotank  | Thigpen, Jr.                        |
| 11-24-1   | Johnson, et al v Antioch United Holy Church, Inc., et al (Civil)<br><b>Decision:</b> Reversed                                                                  | Pender      | Hunter, Jr.                         |
| 10-1517-1 | Wilson v Wilson (Civil)<br><b>Decision:</b> Affirmed in Part, Reversed in Part and Remanded                                                                    | Pitt        | Martin                              |
| 10-900-1  | Williams v Devere Construction Company, Inc., et al (Civil)<br><b>Decision:</b> Affirmed                                                                       | Randolph    | Bryant                              |
| 10-1563-1 | State v Salinas (Criminal)<br><b>Decision:</b> Reversed and Remanded                                                                                           | Rockingham  | McGee<br>Douglas McCullough (c) (d) |
| 10-1225-1 | State v Skipper (Criminal)<br><b>Decision:</b> Affirmed                                                                                                        | Sampson     | Elmore                              |
| 10-1395-1 | Alliance Mutual Insurance Company v Dove (Civil)<br><b>Decision:</b> Affirmed                                                                                  | Scotland    | Steelman                            |
| 11-52-1   | State v Heien (Criminal)<br><b>Decision:</b> Reversed and vacated                                                                                              | Surry       | McGee                               |
| 10-710-1  | Association For Home And Hospice Care v Division of Medical Assistance (Civil)<br><b>Decision:</b> Appeal Dismissed; Superior Court order vacated and remanded | Wake        | Beasley                             |
| 10-1316-1 | Ridge Care, Inc., et al v NC Dept. of Health And Human Services, et al (Civil)<br><b>Decision:</b> Affirmed                                                    | Wake        | Steelman                            |
| 10-1325-1 | In The Matter Of: D.A.Q. (Juvenile - Criminal)<br><b>Decision:</b> Reversed and Remanded                                                                       | Wake        | Geer                                |
| 11-64-1   | McKoy v McKoy (Civil)<br><b>Decision:</b> Vacated and Remanded                                                                                                 | Wake        | Hunter                              |

| Docket #  | Title                                                     | County | Judge                       |
|-----------|-----------------------------------------------------------|--------|-----------------------------|
| 10-1573-1 | State v Anderson (Criminal)<br><b>Decision:</b> New Trial | Wilson | Beasley<br>Wanda Bryant (d) |

**IN THE  
COURT OF APPEALS**

**CASES REPORTED WITHOUT PUBLISHED OPINIONS**

**(FILED 16 AUGUST 2011)  
(MANDATE 6 SEPTEMBER 2011)**

| Docket #  | Title                                                                                                       | County                                      | Judge        |
|-----------|-------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------|
| 11-50-1   | Downer v Wolfe (Civil)<br><b>Decision:</b> Affirmed                                                         | Anson<br>08CVS174                           | McGee        |
| 10-1466-1 | State v Caudill (Criminal)<br><b>Decision:</b> Dismissed                                                    | Brunswick<br>07CRS54458,07CRS5-4460-61      | Stroud       |
| 11-112-1  | In The Matter Of: J.H-S. (Juvenile - 3.1)<br><b>Decision:</b> Affirmed                                      | Buncombe<br>04JA231                         | Ervin, IV    |
| 11-35-1   | In The Matter Of: Prest (Civil)<br><b>Decision:</b> Reversed                                                | Carteret<br>10SP129                         | Bryant       |
| 10-1170-1 | Stony Point Hardware And General Store, Inc., et al v Peoples Bank (Civil)<br><b>Decision:</b> Affirmed     | Catawba<br>08CVS2806                        | McGee        |
| 11-114-1  | In The Matter Of: D.D.D., D.D.D., K.A.D., K.D.D. (Juvenile - 3.1)<br><b>Decision:</b> Reversed and Remanded | Cherokee<br>02JT59-60,08JT38-39             | Martin       |
| 10-461-1  | State v Perry (Criminal)<br><b>Decision:</b> No Prejudicial Error                                           | Durham<br>06CRS59110,06CRS5-9115,06CRS59049 | Ervin, IV    |
| 10-1224-1 | State v Ouaja (Criminal)<br><b>Decision:</b> No Error                                                       | Durham<br>09CRS45318                        | McGee        |
| 10-1473-1 | State v Carroway (Criminal)<br><b>Decision:</b> No Error                                                    | Durham<br>07CRS45692                        | Ervin, IV    |
| 10-1484-1 | State v Howard (Criminal)<br><b>Decision:</b> No Error                                                      | Durham<br>09CRS40895                        | Ervin, IV    |
| 10-1282-1 | Group Health Plan v Integon National Insurance, et al (Civil)<br><b>Decision:</b> Affirmed                  | Edgecombe<br>09CVD559                       | McGee        |
| 10-1038-1 | Wells Fargo Bank, et al v Winston-Salem Investors, LLC (Civil)<br><b>Decision:</b> Affirmed                 | Forsyth<br>09CVS9092                        | Stroud       |
| 11-40-1   | State v Bell (Criminal)<br><b>Decision:</b> Vacated in Part, No Error in Part                               | Forsyth<br>09CRS57481,09CRS9616             | Thigpen, Jr. |
| 11-338-1  | In Re: L.D.G. (Juvenile - 3.1)<br><b>Decision:</b> Affirmed                                                 | Gaston<br>09JT22                            | Martin       |
| 10-1384-1 | State v Eason (Criminal)<br><b>Decision:</b> No prejudicial error                                           | Harnett<br>09CRS56006,10CRS241              | McGee        |

| Docket #  | Title                                                                                                                                         | County                                         | Judge        |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|--------------|
| 10-1540-1 | State v Williams (Criminal)<br><br><b>Decision:</b> No error in part, dismissed without prejudice in part.                                    | Harnett<br>09CRS53835,09CRS5-3869,10CRS526-527 | Hunter, Jr.  |
| 10-1196-1 | State v Galati (Criminal)<br><br><b>Decision:</b> No Error                                                                                    | Iredell<br>08CRS53782                          | Steelman     |
| 10-1337-1 | State v Smalls (Criminal)<br><br><b>Decision:</b> Affirmed in Part; Remanded for Resentencing in Part.                                        | Johnston<br>09CRS57013                         | Ervin, IV    |
| 10-1374-1 | State v Black (Criminal)<br><br><b>Decision:</b> No Error                                                                                     | Lenoir<br>99CRS8290                            | Geer         |
| 10-570-1  | Consoli, et al v Global Supply And Logistics, Inc., et al (Civil)<br><br><b>Decision:</b> Affirmed in part and reversed and remanded in part. | Mecklenburg<br>08CVS10480                      | Ervin, IV    |
| 10-1318-1 | State v Kelly (Criminal)<br><br><b>Decision:</b> Dismissed                                                                                    | Mecklenburg<br>09CRS205977,09CRS-205978        | Ervin, IV    |
| 10-1351-1 | Chavis v Sietman (Civil)<br><br><b>Decision:</b> Dismissed                                                                                    | Mecklenburg<br>08CVD24776                      | McGee        |
| 10-1408-1 | Carter v Maximov, et al (Civil)<br><br><b>Decision:</b> Affirmed                                                                              | Mecklenburg<br>10SP3378<br>09CVS30047          | Thigpen, Jr. |
| 10-1574-1 | State v Austin (Criminal)<br><br><b>Decision:</b> No Error                                                                                    | Mecklenburg<br>06CRS257385                     | Hunter       |
| 11-54-1   | Noel v Dickerson, et al (Civil)<br><br><b>Decision:</b> Dismissed                                                                             | Mecklenburg<br>08CVS2322                       | McGee        |
| 11-68-1   | Town of Matthews v Wright (Civil)<br><br><b>Decision:</b> Reversed and Remanded                                                               | Mecklenburg<br>07CVS7662                       | Bryant       |
| 11-286-1  | In The Matter Of: H.M. (Juvenile - 3.1)<br><br><b>Decision:</b> Affirmed in part; reversed and remanded in part.                              | Mecklenburg<br>10J484                          | Ervin, IV    |
| 11-83-1   | In Re: J.R.L.S. (Juvenile - 3.1)<br><br><b>Decision:</b> Affirmed                                                                             | Moore<br>10JT25                                | Hunter       |
| 10-878-1  | Polston v Ingles Markets (Civil)<br><br><b>Decision:</b> Affirmed in Part, Reversed and remanded in Part                                      | N.C. Industrial<br>Commission<br>725935        | Geer         |
| 10-1066-1 | Blakeney v Blythe Construction, Inc., et al (Civil)<br><br><b>Decision:</b> Affirmed                                                          | N.C. Industrial<br>Commission<br>872311        | Beasley      |
| 10-1142-1 | Thompson v Carolina Cabinet Company, et al (Civil)                                                                                            | N.C. Industrial<br>Commission<br>105742        | Stroud       |

| Docket #  | Title                                                                | County                                              | Judge        |
|-----------|----------------------------------------------------------------------|-----------------------------------------------------|--------------|
|           | <b>Decision:</b> Remanded                                            |                                                     |              |
| 10-1238-1 | Fuller v Best Services Group, et al (Civil)                          | N.C. Industrial Commission<br>793010                | Bryant       |
|           | <b>Decision:</b> Affirmed                                            |                                                     |              |
| 10-1279-1 | Torrence v Aeroquip, et al (Civil)                                   | N.C. Industrial Commission<br>061152                | Thigpen, Jr. |
|           | <b>Decision:</b> Affirmed                                            |                                                     |              |
| 11-2-1    | Tinajero v Balfour Beatty Infrastructure, Inc. (Civil)               | N.C. Industrial Commission<br>091464                | Beasley      |
|           | <b>Decision:</b> Dismissed                                           |                                                     |              |
| 11-51-1   | Curtis v Gaines Motor Lines, Inc., et al (Civil)                     | N.C. Industrial Commission<br>792425                | Hunter       |
|           | <b>Decision:</b> Affirmed                                            |                                                     |              |
| 10-1276-1 | Sigmon v Johnston, et al (Civil)                                     | New Hanover<br>08CVS2619                            | Calabria     |
|           | <b>Decision:</b> Affirmed in part, vacated and remanded in part.     |                                                     |              |
| 10-1291-1 | State v Lofton (Criminal)                                            | New Hanover<br>07CRS62600-02,07CR-S62604,07CRS62606 | Calabria     |
|           | <b>Decision:</b> No Error                                            |                                                     |              |
| 10-1567-1 | Nasser v Dynamic Images Salon And Spa, Inc. (Civil)                  | New Hanover<br>09CVD2085                            | McGee        |
|           | <b>Decision:</b> Affirmed in part, Vacated in part and Remanded      |                                                     |              |
| 11-53-1   | State v Lane (Criminal)                                              | New Hanover<br>09CRS60412,09CRS6-0413,09CRS60414    | Hunter       |
|           | <b>Decision:</b> No Error                                            |                                                     |              |
| 10-849-1  | Dorwani v Dorwani (Civil)                                            | Pasquotank<br>06CVD528                              | Stroud       |
|           | <b>Decision:</b> Affirmed                                            |                                                     |              |
| 10-1303-1 | Orr v King (Civil)                                                   | Pender<br>09CVS1311                                 | McGee        |
|           | <b>Decision:</b> Vacated and remanded                                |                                                     |              |
| 10-1348-1 | Countrywide Home Loans, et al v States Resources Corp, et al (Civil) | Pitt<br>10CVS122                                    | McGee        |
|           | <b>Decision:</b> Affirmed                                            |                                                     |              |
| 10-842-1  | Lyles v Turner (Civil)                                               | Polk<br>08CVD131                                    | Stroud       |
|           | <b>Decision:</b> Affirmed                                            |                                                     |              |
| 10-1433-1 | Nicholson v Thom (Civil)                                             | Robeson<br>08CVS1845                                | Ervin, IV    |
|           | <b>Decision:</b> Affirmed                                            |                                                     |              |
| 10-1405-1 | State v Steele (Criminal)                                            | Rowan<br>06CRS56792,09CRS574-75                     | Calabria     |
|           | <b>Decision:</b> No Error                                            |                                                     |              |
| 10-1457-1 | Romney v Romney (Civil)                                              | Rutherford<br>05CVD975                              | Bryant       |

| Docket #  | Title                                                                     | County                                     | Judge        |
|-----------|---------------------------------------------------------------------------|--------------------------------------------|--------------|
|           | <b>Decision:</b> Affirmed                                                 |                                            |              |
| 10-1555-1 | State v Evans (Criminal)                                                  | Rutherford<br>09CR000199800,09CR-000200800 | McGee        |
|           | <b>Decision:</b> No prejudicial error                                     |                                            |              |
| 11-419-1  | In Re: P.C.H. (Juvenile - 3.1)                                            | Rutherford<br>05JT80                       | Thigpen, Jr. |
|           | <b>Decision:</b> Affirmed                                                 |                                            |              |
| 10-930-1  | State v Edwards (Criminal)                                                | Union<br>08CRS56473                        | Stroud       |
|           | <b>Decision:</b> No Error                                                 |                                            |              |
| 10-1359-1 | State v Becton (Criminal)                                                 | Wake<br>09CRS38133,09CRS49109              | Beasley      |
|           | <b>Decision:</b> No Error                                                 |                                            |              |
| 10-1456-1 | Burgess v NC Criminal Justice Education (Civil)                           | Wake<br>09CVS13710                         | Hunter, Jr.  |
|           | <b>Decision:</b> Affirmed                                                 |                                            |              |
| 10-1604-1 | State v Taylor (Criminal)                                                 | Wake<br>07CRS84551,07CRS8-7620,08CRS37510  | Stroud       |
|           | <b>Decision:</b> Affirmed                                                 |                                            |              |
| 10-1615-1 | State v Torres (Criminal)                                                 | Wake<br>09CRS203207                        | Hunter, Jr.  |
|           | <b>Decision:</b> No Error                                                 |                                            |              |
| 11-180-1  | East Bay Company, Ltd. v Baxley Commercial Properties, LLC, et al (Civil) | Wake<br>08CVS14349                         | Hunter       |
|           | <b>Decision:</b> Dismissed in part and affirmed in part                   |                                            |              |
| 10-1493-1 | Penick, et al v Go Postal In Boone, Inc. (Civil)                          | Watauga<br>10CVD313                        | Bryant       |
|           | <b>Decision:</b> Affirmed                                                 |                                            |              |
| 10-1252-1 | State v Brinson (Criminal)                                                | Wayne<br>07CRS50456-57                     | Ervin, IV    |
|           | <b>Decision:</b> New Trial                                                |                                            |              |