

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-607

Filed: 15 December 2015

Catawba County, No. 09 CRS 056222

STATE OF NORTH CAROLINA

v.

CLYDE GARY WHISENANT, Defendant.

Appeal by defendant from judgment entered 26 August 2011 by Judge John O. Craig III in Catawba County Superior Court. Heard in the Court of Appeals 5 November 2015.

*Attorney General Roy Cooper, by Assistant Attorney General Sherri Horner Lawrence, for the State.*

*Appellate Defender Staples Hughes and Assistant Appellate Defender Katherine Jane Allen, for defendant.*

PER CURIAM.

Defendant Clyde Gary Whisenant's conviction for first-degree statutory rape is vacated. *See State v. Miller*, 159 N.C. App. 608, 583 S.E.2d 620, *aff'd*, 358 N.C. 133, 591 S.E.2d 520 (2004). The case is remanded for resentencing on the remaining conviction.

VACATED IN PART AND REMANDED.

Panel consisting of Judges McCULLOUGH, DIETZ, and TYSON.

STATE V. WHISENANT

*Opinion of the Court*

Report per Rule 30(e).