



## North Carolina Court of Appeals

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From Guilford County  
( 20CRS084811-400, 22CRS028251-400 )

**No. 25-106**

**STATE OF NORTH CAROLINA**

**v.**

**DAVID QUINTON-DEVON INGRAM**

### **ORDER**

On 24 July 2023, a jury returned verdicts finding defendant guilty of involuntary manslaughter, driving while license suspended, and improper backing. After the jury returned its verdicts, defendant, through counsel, gave oral notice of appeal. Defendant subsequently pleaded guilty to the status of habitual felon. The trial court sentenced defendant to an active sentence of 86 to 116 months' imprisonment. After judgment was entered, no additional oral or written notice of appeal was given.

A party may appeal from a judgment of a superior court by giving oral notice of appeal at trial after the judgment is entered or filing a written notice of appeal within fourteen days after entry of the judgment. N.C. R. App. P. 4(a); *see also State v. Jones*, 296 N.C. App. 512, 515 (2024) ("An oral notice of appeal given before entry of the final judgment violates Rule 4 and does not give this Court jurisdiction to hear defendant's direct appeal.").

"A failure on the part of the appealing party to comply with Rule 4 deprives this Court of jurisdiction to consider his or her appeal[.]" *State v. Hughes*, 210 N.C. App. 482, 484 (2011). Because defendant prematurely entered oral notice of appeal, defendant did not comply with the mandates of Rule 4 and we do not have jurisdiction to consider his appeal. Recognizing this, defendant filed a petition for the writ of certiorari on 25 February 2025.

This Court may issue a writ of certiorari "in appropriate circumstances . . . to permit review of the judgments and orders of trial tribunals when the right to prosecute an appeal has been lost by failure to take timely action[.]" N.C. R. App. P. 21(a)(1). While we are authorized by this rule to grant the writ of certiorari, the "practice and procedure shall be provided by statute or rule of the Supreme Court, or, in the absence of statute or rule, according to the practice and procedure of common law." N.C.G.S. § 7A-32(c) (2023). Our longstanding common law provides that the writ of certiorari, though discretionary, is "to be issued *only* for good or sufficient cause shown, and it is not one to which the moving party is entitled as a matter of right." *Womble v. Moncure Mill & Gin Co.*, 194 N.C. 577, 579 (1927) (emphasis added).

Our Supreme Court recently clarified the test for this Court to use when determining whether to issue the writ of certiorari:

First, a writ of certiorari should issue *only if* the petitioner can show merit or that error was probably committed below. This step weighs the likelihood that there was some error of law in the case.

Second, a writ of certiorari should issue *only if* there are extraordinary circumstances to justify it. We require extraordinary circumstances because a writ of certiorari is not intended as a substitute for a notice of appeal. If courts issued writs of certiorari solely on the showing of some error below, it would render meaningless the rules governing the time and manner of noticing appeals.

There is no fixed list of extraordinary circumstances that warrant certiorari review, but this factor generally requires a *showing* of substantial harm, considerable waste of judicial resources, or wide-reaching issues of justice and liberty at stake.

*Cryan v. Nat'l Council of Young Men's Christian Ass'ns of U.S.*, 384 N.C. 569, 572–73 (2023) (emphasis added) (cleaned up). The petitioner must satisfy this test on the face of the petition for the writ of certiorari. See *id.*; *State v. Ricks*, 378 N.C. 737, 741 (2021) (“Though the Court of Appeals may issue a writ of certiorari . . . the petition must show merit or that error was probably issued below.” (cleaned up)); *In re S.D.H.*, 296 N.C. App. 392, 397 (2024) (“A petitioner must satisfy a two-part test before we will issue a PWC.”).

Here, defendant’s petition indicates that the trial court probably erred by not dismissing the involuntary manslaughter charge, not giving defendant’s requested jury instructions, making improper remarks to the jury, and refusing to submit a lesser included offense to the jury. However, defendant’s petition for writ of certiorari does not identify any extraordinary circumstance that would warrant issuing the writ of certiorari. Accordingly, defendant did not satisfy both steps of the test to allow this Court to issue the writ of certiorari.

Though our issuance of the writ of certiorari is reviewed for an abuse of discretion, see *Cryan*, 384 N.C. at 573, “[a]n error of law constitutes an abuse of discretion,” *Slattery v. Appy City, LLC*, 385 N.C. 726, 729 (2024). Issuing the writ of certiorari when defendant did not satisfy the legal test mandated by our Supreme Court would be a legal error, and therefore an abuse of discretion. Consequently, we must deny defendant’s petition for the writ of certiorari. Appeal dismissed.

And it is considered and adjudged further, that Defendant-Appellant, David Quinton-Devon Ingram, do pay the costs of the appeal in this Court incurred, to wit, the sum of Seventy-Seven and 25/100 Dollars (\$77.20), and execution issue therefor.

By order of the Court, sitting as a three-judge panel, this the 22nd of October 2025.

Stroud, J., dissenting.

Today, the Court denies Defendant’s petition for writ of certiorari by order. In my view, that order rests on a misreading of our Supreme Court’s decision in *Cryan v. National Council of Young Men’s Christian Associations of United States*, 384 N.C. 569, 887 S.E.2d 848 (2023). This Court has often granted certiorari when a criminal defendant’s intent to appeal is clear but his right would be lost through counsel’s procedural mistake. Nothing in *Cryan* changes that. Defendant’s appeal may well fail on the merits—it’s difficult to say for certain without a full and

careful analysis of the issues the briefs address—but that misses the point. He has raised potentially meritorious issues on appeal, and his slightly premature notice of appeal should not strip him of appellate review under this Court’s and the Supreme Court’s longstanding precedent.

And there’s another problem: The Court’s order contains almost no reasoning for denying certiorari. That departs from our usual practice. Since this Court’s inception in 1967, we have issued written opinions explaining our rulings in almost all cases—even when denying certiorari. The Court does not do so here. This omission is troubling for several reasons. Because I would grant Defendant’s petition for writ of certiorari and resolve his appeal on the merits through a written opinion, I respectfully dissent.

As the order recounts, Defendant gave oral notice of appeal after the jury returned its verdict on 24 July 2023—before the trial court entered its judgment. That notice was premature and therefore defective. *See State v. Jones*, 296 N.C. App. 512, 515, 909 S.E.2d 373, 376 (2024) (noting that the “[d]efendant prematurely entered oral notice of appeal before entry of the final judgment in violation of Rule 4,” so this Court did “not have jurisdiction to hear [his] direct appeal”). After Defendant’s defective oral notice, the trial court signed the appellate entries and assigned the Appellate Defender to represent Defendant on appeal. The Appellate Defender appointed counsel for Defendant’s appeal on 9 November 2023.

Despite the defective notice, the appeal proceeded normally. Transcripts were delivered, the record on appeal was prepared and settled, and briefs were submitted. On 25 February 2025, the same day he filed his appellate brief, Defendant also submitted a petition for writ of certiorari.

In the petition, Defendant acknowledges that he lost his right to appeal by “failing to give [timely] oral notice of appeal” and “failing to serve written notice of appeal on the State within 14 days after entry of judgment.” But he argues that he has raised meritorious arguments on appeal: that the trial court erred in “failing to dismiss” his involuntary manslaughter charge, refusing to give his requested jury instructions, giving improper “preliminary remarks/instruction to the jury pool,” and declining “to submit a lesser-included offense to the jury.”

In response, the State requests that we deny the petition. It does not, however, contend that it was prejudiced in any way by Defendant’s premature oral notice of appeal. And the State notes that under Rule 21 of the North Carolina Rules of Appellate Procedure, “this Court has the discretion to issue [certiorari], if it finds that Defendant failed to properly appeal his convictions.”

Under this Court’s established precedent and practice, these circumstances call for certiorari; or at least an opinion explaining why it was denied. Yet in a brief order, the Court declares (without any reasoning) that Defendant has not identified “extraordinary circumstances” to warrant certiorari. The Court cites *Cryan*, 384 N.C. at 569, 887 S.E.2d at 848. But as I explain below, *Cryan* did not create a rule requiring a criminal defendant with a defective notice of appeal—through no fault of his own—to demonstrate either “extraordinary circumstances” like those in *Cryan* or a slam-dunk case of prejudicial legal error combined with “extraordinary circumstances.” Indeed, this Court has granted certiorari in these situations for decades without such requirements.

Start with *Cryan*, which was nothing like this case. There, the defendant appealed his civil case and petitioned for certiorari because his appeal was interlocutory. *Cryan v. Nat’l Council of Young Men’s Christian Ass’ns of U.S.*, 280 N.C. App. 309, 313, 867 S.E.2d 354, 357 (2021). This Court noted that the interlocutory appeal presented an important issue involving “a relatively new statutory scheme which ha[d] limited jurisprudence surrounding it.” *Id.* at 316, 867 S.E.2d at 359. Granting certiorari, we reasoned, would “provide guidance and clarity to trial courts across North Carolina” and “promote judicial economy.” *Id.* (citation omitted). The Supreme Court

affirmed, holding that the decision to grant certiorari “was well within [this Court’s] sound discretion.” *Cryan*, 384 N.C. at 573, 887 S.E.2d at 851.

As we have recently made clear, *Cryan* “simply reaffirm[ed] our discretion to allow petitions for writ of certiorari in appropriate cases—the scope of which is guided by our precedent and our understanding of the equitable concerns in each case.” *State v. Gardner*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 917 S.E.2d 494, 498 (2025). *Cryan* does not hold that a criminal defendant seeking certiorari must demonstrate not just meritorious arguments and trial court error, but also “extraordinary circumstances” beyond that error. If this Court’s denial rests on a misunderstanding of *Cryan*, it constitutes an abuse of discretion. See, e.g., *Worley v. Moore*, 370 N.C. 358, 363-64, 807 S.E.2d 133, 138 (2017) (“[A] trial court’s exercise of discretion is subject to reversal when the court orders disqualification based on a misunderstanding of the law[.]”).

Unlike interlocutory appeals in civil cases, criminal cases involving defective notices of appeal are governed by well-established precedent that strongly supports granting certiorari here. In *State v. Springle*, for example, we stated that “a defect in a notice of appeal ‘should not result in loss of the appeal as long as the intent to appeal . . . can be fairly inferred from the notice and the appellee is not misled by the mistake.’ ” 244 N.C. App. 760, 763, 781 S.E.2d 518, 521 (2016) (citation omitted). We emphasized that “the State concede[d] that it ha[d] ‘suffered no prejudice’ ” because of the “defendant’s defective notice of appeal.” *Id.* The Court interpreted that concession “to mean that the State was not misled by the defective notice.” *Id.* Following our normal practice, we granted certiorari because “the defendant’s notice of appeal was defective ‘through no fault of his own,’ and the State was not misled as a result thereof.” *Id.* at 763-64, 781 S.E.2d at 521. This Court has reached that same result and repeated that same principle in case after case.<sup>1</sup>

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<sup>1</sup> See, e.g., *State v. Cooper*, 4 N.C. App. 210, 213, 166 S.E.2d 509, 512 (1969) (granting certiorari “in the interest of justice to the defendant” when his appeal failed to comply with the timeline for docketing appeals); *State v. Atwell*, 62 N.C. App. 643, 645, 303 S.E.2d 402, 404 (1983) (granting certiorari despite lack of proper notice when the district attorney’s office had notice of possible appeal); *State v. SanMiguel*, 74 N.C. App. 276, 278, 328 S.E.2d 326, 328 (1985) (granting certiorari when the record lacked “a copy of the notice of appeal or an appeal entry showing that appeal was taken orally”); *State v. May*, 207 N.C. App. 260, 262, 700 S.E.2d 42, 44 (2010) (granting certiorari when the defendant “g[a]ve oral notice of appeal in open court from the trial court’s . . . order, rather than written notice of appeal in accordance with the requirements of Rule 3”); *State v. High*, 230 N.C. App. 330, 333, 750 S.E.2d 9, 12 (2013) (granting certiorari when the defendant’s notice of appeal “lacked both proper notice and court designation”); *State v. Hammonds*, 218 N.C. App. 158, 162, 720 S.E.2d 820, 823 (2012) (granting certiorari when the defendant “fail[ed] to list all the convictions” he was trying “to appeal and fail[ed] to properly name the court to which he [wa]s appealing”); *State v. Holanek*, 242 N.C. App. 633, 640, 776 S.E.2d 225, 231-32 (2015) (granting certiorari when the defendant’s “oral notice of appeal” was given “six days after the conclusion of [the d]efendant’s trial” and thus ineffective); *State v. Kirkman*, 251 N.C. App. 274, 278, 795 S.E.2d 379, 382 (2016) (granting certiorari when the notice of appeal mentioned only the motion to suppress and not the actual judgment sentencing the defendant); *State v. Glidewell*, 255 N.C. App. 110, 112, 804 S.E.2d 228, 231 (2017) (Berger, J., writing for the Court) (granting certiorari when the defendant’s “notice of appeal was neither given orally ‘at trial’ nor filed with the clerk”); *State v. Lopez*, 264 N.C. App. 496, 503-04, 826 S.E.2d 498, 503-04 (2019) (granting certiorari when “defense counsel prematurely entered an oral notice of appeal before entry of the final judgment, in violation of Rule 4”); *State v. Perez*, 275 N.C. App. 860, 865, 854 S.E.2d 15, 20 (2020) (granting certiorari when the “[d]efendant’s oral notice of appeal was insufficient to confer jurisdiction . . . under Rule 3”); *State v. Patterson*, 272 N.C. App. 569, 573, 846 S.E.2d 814, 817 (2020) (Dietz, J., writing for the Court) (granting certiorari when the defendant “included a document with his petition, addressed to the Clerk of Superior Court, titled ‘New Hanover County Detention Facility Inmate Request Form’ ” and his case number, the date, and a clear inscription that he was “appealing [his] sentence”); *State v. Robinson*, 279 N.C. App. 643, 645, 865 S.E.2d 745, 748 (2021) (granting certiorari when defense counsel failed to give timely notice of appeal from the denial of the defendant’s motion to suppress); *State v. Smith*, 292 N.C. App. 662, 665, 898 S.E.2d 909, 912 (2024) (granting certiorari when defense counsel entered oral notice of appeal before the trial court entered its final

This case is of a piece. Defendant’s notice was defective through no fault of his own. The State suffered no prejudice. And Defendant raised potentially meritorious issues. So again, under our caselaw, I would exercise my discretion to grant certiorari.

Yet the Court holds otherwise—and not by opinion, but by order. Whether this Court grants or denies certiorari, it has traditionally issued an opinion outlining the factual and legal rationale for its decision. We have done so even when *denying* a criminal defendant’s petition for certiorari. See, e.g., *State v. Rouson*, 226 N.C. App. 562, 563, 741 S.E.2d 470, 471 (2013). Many of those opinions, like *Rouson*, are published, precedential opinions.<sup>2</sup> Others are unpublished and non-precedential but remain available for the public’s review.<sup>3</sup> See, e.g., *State v. Paktiawal*, 281 N.C. App. 215, 866 S.E.2d 532 (2021) (unpublished).

This Court has recently decided to adopt a different practice in many cases. In these appeals, including denials of petitions for certiorari, the Court now issues orders instead of opinions. (I cannot cite specific instances because, at the time of this dissent, these orders are not available on any searchable database—they can only be located on our electronic filing website if one already knows the specific case name or number, or by manually searching through records at the Court of Appeals Clerk’s Office. But they exist.) To the extent that these orders I am aware

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judgment); *State v. Jones*, 296 N.C. App. 512, 515, 909 S.E.2d at 373, 376 (2024) (same); *In re Laliveres*, 292 N.C. App. 422, 424, 898 S.E.2d 780, 781 (2024) (granting certiorari when the record lacked any “certificate of service” or “any form of evidence” showing that “the filed notice of appeal was served on the State”); *State v. Pierce*, 295 N.C. App. 556, 558, 906 S.E.2d 530, 532 (2024), *disc. review denied*, \_\_\_ N.C. \_\_\_, 912 S.E.2d 827 (2025) (granting certiorari after explaining that a “defective notice of appeal ‘should not result in loss of the appeal as long as the intent to appeal from a specific judgment can be fairly inferred from the notice and the appellee is not misled by the mistake’ ” (citation omitted)); *State v. Gardner*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 917 S.E.2d 494, 500 (2025) (granting certiorari after noting that “[o]ur caselaw recognizes this Court should err on the side of adjudicating” cases like this one “on the merits rather than punishing defendants for mistakes over which they had no control—particularly where, as here, the defendant’s intent to appeal was clear”); *State v. Owens*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 917 S.E.2d 505, 510 (2025) (granting certiorari when the defendant’s “notice of appeal d[id] not include all of the file numbers from his underlying cases, d[id] not state the court to which the appeal was being taken, and d[id] not appear to have been served on the State”). I could, of course, continue.

<sup>2</sup> See, e.g., *State v. Ager*, 152 N.C. App. 577, 585, 568 S.E.2d 328, 333 (2002) (denying certiorari after explaining the Court’s reasoning to the parties and the public); *State v. Nance*, 155 N.C. App. 773, 774-75, 574 S.E.2d 692, 693-94 (2003) (same); *State v. Biddix*, 244 N.C. App. 482, 491-94, 780 S.E.2d 863, 869-71 (2015) (same); *State v. Bishop*, 255 N.C. App. 767, 769-70, 805 S.E.2d 367, 369-70 (2017) (Dietz, J., writing for the Court) (same); *State v. Cozart*, 260 N.C. App. 96, 99-101, 817 S.E.2d 599, 601-03 (2018) (Berger, J., writing for the Court) (same); *State v. Ledbetter*, 261 N.C. App. 71, 73-78, 819 S.E.2d 591, 592-95 (2018) (same); *State v. Gantt*, 271 N.C. App. 472, 474-75, 844 S.E.2d 344, 346-47 (2020) (Berger, J., writing for the Court) (same); *State v. Wright*, 284 N.C. App. 178, 203-04, 875 S.E.2d 552, 569 (2022) (same); *State v. Scott*, 294 N.C. App. 282, 284-86, 902 S.E.2d 336, 338-39 (2024) (same). Again, I could go on.

<sup>3</sup> See, e.g., *State v. Gibbs*, 156 N.C. App. 427, 577 S.E.2d 717 (2003) (unpublished); *State v. Floyd*, 173 N.C. App. 234, 617 S.E.2d 722 (2005) (unpublished); *State v. Gamble*, \_\_\_ N.C. App. \_\_\_, 680 S.E.2d 902 (2009) (unpublished); *State v. Stepp*, 212 N.C. App. 423, 713 S.E.2d 790 (2011) (unpublished); *State v. Brown*, 221 N.C. App. 670, 729 S.E.2d 127 (2012) (unpublished); *State v. Miller*, 234 N.C. App. 117, 761 S.E.2d 756 (2014) (unpublished); *State v. Headen*, 255 N.C. App. 694, 803 S.E.2d 870 (2017) (unpublished) (Dietz, J., writing for the Court); *State v. McCoy*, 266 N.C. App. 619, 830 S.E.2d 709 (2019) (unpublished) (Berger, J., writing for the Court); *State v. Helms*, 278 N.C. App. 606, 860 S.E.2d 43 (2021) (unpublished); *State v. Ellerbe*, 291 N.C. App. 520, 894 S.E.2d 291 (2023) (unpublished); *State v. Smith*, 296 N.C. App. 158, 905 S.E.2d 924 (2024) (per curiam) (unpublished); *State v. Drayton*, \_\_\_ N.C. App. \_\_\_, 913 S.E.2d 926 (2025) (unpublished).

of explain the Court’s rationale, they seem to reflect a view that the defendant’s arguments, though potentially meritorious and reasonable, would ultimately fail in that particular case.

Consider an example. Suppose a trial court admitted evidence that should have been excluded, but on appeal, the defendant cannot show prejudice because other properly admitted evidence overwhelmingly supports the verdict. The defendant would lose—not because the trial court made no error, but because he cannot show that the error affected the outcome. Even here, a written opinion would provide important guidance: It would confirm that admitting the evidence was legal error, even though the defendant could not demonstrate prejudice. Trial courts would know not to repeat the mistake. Attorneys would understand the evidentiary rule. And the public would see that courts take legal errors seriously even when they don’t change the result in a specific case. Providing this sort of guidance is a primary role of an intermediate appellate court. An order provides none of it.

To be sure, no statute or rule requires this Court to issue written opinions explaining its decisions in each case. But this has been the Court’s consistent practice since 1967. And the only rule in the North Carolina Rules of Appellate Procedure that addresses this Court’s written opinions is Rule 30, which governs when opinions may be “unpublished”—or more accurately, non-precedential. N.C. R. App. P. 30(e). Rule 30(e) provides:

(1) In order to minimize the cost of publication and of providing storage space for the published reports,<sup>[4]</sup> the Court of Appeals is not required to publish an opinion in every decided case. If the panel that hears the case determines that the appeal involves no new legal principles and that an opinion, if published, would have no value as a precedent, it may direct that no opinion be published.

(2) The *text of a decision without published opinion* shall be posted on the opinions web page of the Court of Appeals . . . and reported only by listing the case and the decision in the advance sheets and the bound volumes of the North Carolina Court of Appeals Reports.

. . . .

*Id.* (emphasis added). The rule says that this Court “is not required to *publish* an opinion” in every case, but its clear import is that the Court should “*issue a written opinion*” in “every decided case”—some will just be “unpublished.” *Id.* (emphasis added). The Rules of Appellate Procedure do not define “opinion,” but Black’s Law Dictionary defines it as “[a] court’s written statement explaining its decision in a given case, . . . including the statement of facts, points of law, rationale, and dicta.” *Opinion, Black’s Law Dictionary* (12th ed. 2024). Under Rule 30, then, this Court should issue a written opinion in each case, even if unpublished and non-precedential.

That said, this Court has always issued orders in appropriate situations. Most orders address routine procedural motions: requests for extensions of time to file a record, brief, or transcript; motions for withdrawal or substitution of counsel; motions to amend the record; requests to expand word limits in briefing; and so on. At times, this Court issues orders allowing an appellee’s motion to dismiss an appeal, essentially adopting the basis for dismissal stated in the motion.

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<sup>4</sup> This stated rationale for Rule 30—minimizing publication costs and storage space—has been rendered obsolete by digital storage, although there are other good reasons to issue unpublished opinions. See Donna S. Stroud, *The Bottom of the Iceberg: Unpublished Opinions*, 37 Campbell L. Rev. 333, 335 n. 3, 349 (2015).

But resolving fully briefed appeals—appeals presenting detailed arguments on several issues—by bare-bones order is different. Again, this practice is new for this Court, and I can find no support for it in the North Carolina General Statutes, the Rules of Appellate Procedure, or our caselaw. This gives me great concern. And it raises important jurisprudential considerations.

Written opinions, even unpublished ones, serve several critical functions. They tell the parties why the Court ruled as it did and show that the Court fully considered their arguments. See Mathilde Cohen, *When Judges Have Reasons Not to Give Reasons: A Comparative Law Approach*, 72 Wash. & Lee L. Rev. 483, 512 (2015) (explaining that the “giving of reasons . . . ensures that the deciding court has considered all relevant factors, researched the applicable law[,] and given the case the thought it deserved”). Opinions also instruct trial courts, attorneys, law enforcement officers, and others who carry out the important work of our judicial system. Most cases will never reach an appellate court. But the few that do present many different factual, procedural, and legal variations of recurring issues. How we resolve those issues gives guidance to everyone in the judicial system—and the public.

Written opinions also promote this Court’s transparency and accountability. As our Supreme Court observed over a century ago, “[t]he purpose to be served in filing opinions is to give the reasons actuating the court.” *Miller v. Bank of Washington*, 176 N.C. 152, 159, 96 S.E. 977, 980 (1918). When courts give reasons, those reasons can be examined “by the bar and by public opinion” to determine whether they are “sound[.]” *Id.* “If the reasons given cannot be sustained . . . as sound, sooner or later the ruling is reversed by the court itself or is cured by legislation.” *Id.* This process “functions as a transparency- and accountability-enhancing mechanism” that allows “the general public to know the law” and enables “reviewing courts to verify that judges are carrying out their obligations adequately.” Cohen, 72 Wash. & Lee L. Rev. at 506, 510. Simply put, written opinions preserve public trust and confidence in our courts.

Orders that dispose of fully briefed appeals undermine these functions. Without a written opinion, the parties do not know why the Court ruled as it did, and trial courts, attorneys, and the public receive no guidance on the legal issues presented. The lack of reasoning also eliminates transparency—no one can examine whether the Court’s decision properly considered the parties’ arguments or rests on sound legal principles.

And the costs of this practice extend beyond transparency. For instance, by the time this case reached the Court, the State had already paid for Defendant’s appointed counsel, transcript production, the prosecuting attorney, and clerk’s office personnel at both the trial and appellate levels. Not much work remains—just an opinion from this Court. Yet when this Court denies certiorari without explanation, all that prior expenditure yields no guidance for future cases and no assurance to the parties or the public that their arguments received full consideration.

I realize that review by certiorari is discretionary. But if *Cryan* truly limits this discretion to cases in which the criminal defendant shows egregious and prejudicial error plus “extraordinary circumstances” beyond that error, the public deserves to know. Criminal defense attorneys, prosecutors, the Attorney General’s Office, and the public should understand this rule, since it would mark a substantial change from our previous jurisprudence. Such a rule might also raise concerns about due process or other constitutional protections. But at this point, we simply don’t know what the rule is.

In sum, if *Cryan* invented a rule barring certiorari in criminal cases like this one, thus overruling years of precedent, the Supreme Court should say so clearly. A clear rule would minimize wasted effort and expense in such appeals. But more importantly, clarity would serve the interests of justice and preserve public confidence in our courts.

For all these reasons, I would grant Defendant's petition for writ of certiorari and issue a written opinion. I respectfully dissent.

WITNESS my hand and the official seal of the North Carolina Court of Appeals, this the 23rd day of October 2025.



Eugene H. Soar  
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The Honorable Clerk of Superior Court, Guilford County