

SUPREME COURT OF NORTH CAROLINA

PETITIONS

Decided by the Court in Conference: 4 December 2003

{Posted on the Internet Web Site: 5 December 2003 at 11:30 a.m.}

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COMMON ABBREVIATIONS

Abbreviation	Full Term
PWC	Petition for Writ of Certiorari
MAR	Motion for Appropriate Relief
COA	North Carolina Court of Appeals
MTS	Motion for Temporary Stay
Def	Defendant
NOA	Notice of Appeal
Plt	Plaintiff
PDR	Petition for Discretionary Review
Cert	Certiorari
AG	Attorney General

PETITIONS

4 December 2003

027P02-2	State v. Timothy Steven Jones	1. Def's <i>Pro Se</i> PWC to Review the Order of the COA (COAP03-677) 2. Def's <i>Pro Se</i> PWC to Review the Order of the Superior Court	1. Dismissed 2. Dismissed
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048A03-2	State v. Mark W. Marcoplos, et al.	<p>1. Defs' NOA (Constitutional Question) (COA01-1518)</p> <p>2. AG's Motion to Dismiss Appeal</p>	<p>1. ---</p> <p>2. Allowed</p>
118P01-7	State v. Cornelius Tucker, Jr.	<p>1. Def's <i>Pro Se</i> Petition for PWC to Review the Opinion of the COA (COAP02-280)</p> <p>2. Def's <i>Pro Se</i> Petition for Writ of Mandamus</p> <p>3. Def's <i>Pro Se</i> PWC to Review the Order of the COA</p> <p>4. Def's <i>Pro Se</i> Petition for Writ of Supersedeas</p> <p>5. Def's <i>Pro Se</i> Petition for Writ of Mandamus</p> <p>6. Def's <i>Pro Se</i> PWC to Review the Order of the COA</p> <p>7. Def's <i>Pro Se</i> Petition for Writ of Supersedeas</p> <p>8. Def's <i>Pro Se</i> PWC to Review the Order of the COA</p> <p>9. Def's <i>Pro Se</i> Petition for Writ of Supersedeas; Two Petitions for Writ of Mandamus; and Three Petitions for Writ of Supersedeas</p>	<p>1. Dismissed</p> <p>2. Denied</p> <p>3. Dismissed</p> <p>4. Denied</p> <p>5. Denied</p> <p>6. Dismissed</p> <p>7. Denied</p> <p>8. Dismissed</p> <p>9. Denied</p> <p>10. Dismissed</p>

		10. Def's <i>Pro Se</i> PWC to Review the Order of the COA	
146A02	State v. LeMorris J. Chapman	1. Def's Motion to File Supplemental/ Reply Brief 2. AG's Motion to Strike Def's Supplemental/Reply Brief	1. Allowed 11/14/03 2. Denied; State is allowed 30 days from this date to file responsive brief to def's supplemental brief 11/14/03
324A94-3	State v. Wade Larry Cole	Def's Motion to Extend Time to File Petition for Writ of Certiorari on 12/22/03	Allowed 11/14/03
350P03	Northwestern National Bank, formerly known as Wilkes National Bank v. Western and Southern Life Insurance Company and George Manos	1. Def's (Western and Southern Life Ins. Co.) NOA Based Upon a Constitutional Question (COA02-760) 2. Def's (Western and Southern Life Ins. Co.) PDR Under N.C.G.S. § 7A-31	1. Dismissed <i>ex mero motu</i> 2. Denied
376P02-2	State of North Carolina, Respondent v. Robert Wayne Stanley, Petitioner	1. Petitioner's <i>Pro Se</i> Petition for Writ of Habeas Corpus 2. Petitioner's <i>Pro Se</i> Motion to be Afforded Bond Pending Outcome of Petition	1. Denied 2. Dismissed as moot 3. Denied

		3. Petitioner's <i>Pro Se</i> Motion to Appoint Counsel	
407P03	State v. Phillip Vance Smith, II	Def's PDR Under N.C.G.S. § 7A-31 (COA02-1089)	Denied
428P03	State v. Billy Lee Lisenby, Jr.	1. Def's <i>Pro Se</i> PWC to Review the Order of the Superior Court 2. Def's <i>Pro Se</i> Motion to Proceed <i>In Forma Pauperis</i> 3. Def's <i>Pro Se</i> Motion to Appoint Counsel	1. Dismissed 2. Allowed 3. Denied
434A02	The North Carolina State Bar v. Willie D. Gilbert, Attorney	Def's Petition for Rehearing	Denied 11/18/03
439P03	State v. Jesus A. Loza- Rivera	1. AG's Motion for Temporary Stay 2. AG's Petition for Writ of Supersedeas 3. AG's PDR Under N.C.G.S. § 7A-31 (COA02-951)	1. Allowed pending determination of the State's PDR 08/19/03 Stay Dissolved 12/04/03 2. Denied 3. Denied
443P03	State v. Richard Lee Peak	Def's <i>Pro Se</i> PWC to Review the Decision of the COA (COA02-801)	Denied
454P03	State v. Walter William Davis, II	1. Def's <i>Pro Se</i> PWC to Review the Decision of the COA (COA02-1537)(Filed as PDR)	1. Denied 2. ---

		<p>2. Def's <i>Pro Se</i> PWC to Review the Decision of the COA (Filed as NOA Based Upon a Constitutional Question)</p> <p>3. AG's Motion to Dismiss Appeal (Appeal Docketed as PWC-D)</p>	3. Allowed
463P03	State v. Kenan Reid Partozes	Def's <i>Pro Se</i> PWC to Review the Order of the COA (COAP03-172)	Denied
473P03	State v. Bobby Grady	<p>1. Def's <i>Pro Se</i> PWC to Review the Order of the COA (COAP03-703)</p> <p>2. Def's <i>Pro Se</i> PWC to Review the Order of the Superior Court</p> <p>3. Def's <i>Pro Se</i> Motion to Appoint Counsel</p> <p>4. Def's <i>Pro Se</i> Motion to Proceed <i>In Forma Pauperis</i></p> <p>5. Def's <i>Pro Se</i> Motion to Expedite Consideration of Petitions for Writ of Certiorari</p>	<p>1. Dismissed</p> <p>2. Dismissed</p> <p>3. Denied</p> <p>4. Allowed</p> <p>5. Allowed</p>
481P03	In the Matter of the Will of Louella Overton Smith	Caveators' (Betty Smith Poole and Peggy Smith Scarborough) PDR Under N.C.G.S. § 7A-31 (COA02-607)	Denied
483A03	Morris Communications Corp. d/b/a Fairway Outdoor Advertising v. The Board of	Respondent-Appellee's Motion to Dismiss Appeal	Allowed

	Adjustment for the City of Gastonia		
485A03	State v. Jerry Martin Adams	1. Def's NOA (Constitutional Question)(COA02-1023) 2. AG's Motion to Dismiss Appeal for Lack of Substantial Constitutional Question	1. --- 2. Allowed
486P03	Frances C. Briggs, et al., Petitioners v. City of Asheville, a North Carolina Municipal Corporation, Respondent	1. Respondent's PDR Under N.C.G.S. § 7A-31 (COA02-1296) 2. Petitioners' PDR Under N.C.G.S. § 7A-31	1. Denied 2. Dismissed as moot
493P03	State v. Robert Edward Williams	Def's PDR Under N.C.G.S. § 7A-31 (COA02-761)	Denied Orr, J., recused
496P03	State v. Neivus Renord Poag	1. Def's NOA Based Upon a Constitutional Question 2. Def's PDR Under N.C.G.S. § 7A-31 (COA02-773) 3. AG's Motion to Dismiss Appeal	1. --- 2. Denied 3. Allowed
500A03	Jeffrey R. Kennedy, D.D.S., P.A. v. K. Carroll Kennedy and Jerre Kennedy	1. Defs' Motion for Temporary Stay 2. Defs' Petition for Writ of Supersedeas	1. Denied 09/11/03 2. --- 3. ---

		<p>3. Defs' NOA Based Upon a Dissent (COA02-1198)</p> <p>4. Defs' PDR as to Additional Issues</p> <p>5. Defs' Motion to Amend Petition for Writ of Supersedeas</p> <p>6. Plt's Motion for Temporary Stay of Appellate Proceedings</p> <p>7. Joint Motion of Plt and Defs for Dismissal</p>	<p>4. ---</p> <p>5. ---</p> <p>6. See Special Order 10/24/03</p> <p>7. Allowed</p>
506A90-4	State v. John Dennis Daniels	<p>1. Def's Motion for Temporary Stay of Execution</p> <p>2. Def's Petition for Writ of Supersedeas</p> <p>3. Def's PWC to Review the Order of the Superior Court</p>	<p>1. Denied 11/13/03</p> <p>2. Denied 11/13/03</p> <p>3. Denied 11/13/03</p>
510P03	State v. Everette Fogg	<p>Def's PDR Under N.C.G.S. § 7A-31 (COA02-1421)</p>	<p>Denied</p>
512P03	State v. Stephen Howard Whittington	<p>1. Def's NOA Based Upon a Constitutional Question (COA02-818)</p> <p>2. Def's PDR Under N.C.G.S. § 7A-31</p> <p>3. AG's Motion to Dismiss</p>	<p>1. ---</p> <p>2. Denied</p> <p>3. Allowed</p>

519P03	In the Matter of: Martin and Martin	Petitioner's (Scott Farmer) PWC to Review the Decision of the COA (COA02-1081)	Denied
522P03	State v. Derrick Antonio McCree	1. Def's NOA of a Substantial Constitutional Question (COA02-796) 2. Def's PDR	1. Dismissed <i>ex mero motu</i> 2. Denied
531P03	Charles R. Hutton v. Glosson Freightways, Inc.	1. Plt's PDR Under N.C.G.S. § 7A-31 (COA02-390) 2. Def's Conditional PDR as to Additional Issues	1. Denied 2. Dismissed as moot
532P03	Jefferson Pilot Financial Insurance Company f/k/a Alexander Hamilton Life Insurance Company of America f/k/a Jefferson-Pilot Pension Life Insurance Company v. Marsh USA, Inc. f/k/a Marsh & McLennon, Inc., Successor to Johnson & Higgins Carolinas, Inc., and Hartford Fire Insurance Company	1. Def's (Hartford) PDR Under N.C.G.S. § 7A-31 (COA02-1386, COA02-1484) 2. Def's (Marsh USA) Conditional PDR	1. Denied 2. Dismissed as moot
533P03	Anthony Lambert v. Katherine S. Cartwright	Plt's <i>Pro Se</i> PDR Under N.C.G.S. § 7A-31 (COA02-961)	Denied
534P03	In the Matter of: The Estate of Robert L. Moore, Jr., Incompetent	Respondent's (Robert E. Monroe) PDR Under N.C.G.S. § 7A-31 (COA02- 1248)	Allowed 12/02/03
535P03	Niles D. Slavin and wife, Carol J. Slavin, et al. v. Town of Oak Island, a North Carolina	1. Plts' NOA Based Upon a Constitutional Question (COA02-671)	1. Dismissed <i>ex mero motu</i>

	Municipal Corporation and Body Politic	2. Plts' PDR Under N.C.G.S. § 7A-31 3. Plts' Motion Under Rule 2 to File a Reply to Def's Response	2. Denied 3. Denied
536P03	State v. Andrew Mark Hudson	Def's <i>Pro Se</i> PWC to Review the Decision of the COA (COA02-1214)	Denied
540P03	Franklin D. Freeman, Employee v. Triangle Grading & Paving, Inc., Employer and Zurich Commercial Insurance, Carrier	Def's PDR Under N.C.G.S. § 7A-31 (COA02-1269)	Denied 11/17/03
542P03	State v. Robert Dixon	1. Def's <i>Pro Se</i> PWC to Review the Order of the COA (COAP03-539) (Filed as Certiorari for Constitutional Review) 2. Def's <i>Pro Se</i> PWC to Review the Order of the Superior Court 3. Def's <i>Pro Se</i> Motion to Appoint Counsel	1. Dismissed 2. Dismissed 3. Denied
543P03	Robert Gene Bailey v. Home Exteriors of Fayetteville, Inc., Pete Porreco, Beth Porreco and Tony Hodges	Plt's <i>Pro Se</i> PWC to Review the Order of the COA (COAP03-249)	Denied
544P03	State v. Donnell Pittman	1. Def's <i>Pro Se</i> PWC to Review the Decision of the COA (COA02-384) 2. Def's <i>Pro Se</i> Motion to Appoint Counsel	1. Denied 2. Denied

548P03	State v. Bernard Nathaniel Hadder	<p>1. Def's <i>Pro Se</i> PWC to Review the Order of the Superior Court</p> <p>2. Def's <i>Pro Se</i> Motion for Evidentiary Hearing in Superior Court</p>	<p>1. Dismissed</p> <p>2. Dismissed</p>
551P03	In the Matter of: Chadwick O'Neal	Respondent's (Chadwick O'Neal) PDR Under N.C.G.S. § 7A-31 (COA02-906)	Denied
557P03	State v. Keith Allen Cole	<p>1. Def's NOA Based Upon a Constitutional Question (COA02-850)</p> <p>2. Def's PDR Under N.C.G.S. § 7A-31</p> <p>3. AG's Motion to Dismiss Appeal</p>	<p>1. ---</p> <p>2. Denied</p> <p>3. Allowed</p>
559P03	James D. Garrett v. Deborah Galloway and Wallace Galloway	<p>1. Def's PWC to review the Decision of the COA (COA02-1185)</p> <p>2. Def's PWC to Review the Order of the COA</p>	<p>1. Denied</p> <p>2. Denied</p>
562P03	State v. Curtis P. Cheek	<p>1. Def's <i>Pro Se</i> PWC to Review the Order of the COA (COAP03-289)</p> <p>2. Def's <i>Pro Se</i> PWC to Review the Order of the Superior Court</p> <p>3. Def's <i>Pro Se</i> Motion to Remand to the Superior Court</p>	<p>1. Dismissed</p> <p>2. Dismissed</p> <p>3. Dismissed</p>
576P03	WLNR 1230 AM Radio v. Dr. Ronald W. Benfield, Cannon	Plt's PWC to Review the Order of the COA	Denied

	Media Corporation and Carolina Orthopedics		
577P03	State v. William Powell Crooks	1. Def's <i>Pro Se</i> PWC to Review the Decision of the COA (COA01-1061) 2. Def's <i>Pro Se</i> Motion to Amend Petition	1. Denied 2. Allowed
578P03	Alfred Lee Mauldin v. B.O.P. and Warden W.F. Dalius, Jr., et al.	Plt's <i>Pro Se</i> PWC to Review the Order of the COA (COAP03-797)(Filed as Informal NOA)	Denied
580P03	State v. Allan Thomas Lassiter	Def's PDR Under N.C.G.S. § 7A-31 (COA02-1279)	Denied
581P03	State v. Ruben Alberto Diaz and Jose Juan Espinoza Lopez	Def's (Lopez) <i>Pro Se</i> PWC to Review the Opinion of the COA (COA02-145)	Denied
582P03	State v. John Arthur Terrell, III	Def's <i>Pro Se</i> PDR Under N.C.G.S. § 7A-31 (COA03-89)	Denied
584P03	In the Matter of: Sarah Dorothy Almanie, Rachel Gail Almanie, Vincent P. Muse, and Justin L. Muse	Respondents' (Covingtons) Petition for Writ of Supersedeas	Denied
585P03	State v. Richard Earl Harper	1. Def's NOA Based Upon a Constitutional Question (COA02-1573) 2. Def's PDR Under N.C.G.S. § 7A-31 3. AG's Motion to Dismiss	1. --- 2. Denied 3. Allowed
586P03	Erastus Camp v. Kimberly-Clark Corporation	1. Def's Motion for Temporary Stay (COA01-68)	1. Denied 11/13/03 2.

		<p>2. Def's Petition for Writ of Supersedeas</p> <p>3. Def's Petition for Discretionary Review Under N.C.G.S. § 7A-31</p>	3.
587P03	Harvey Patrick Short, Petitioner v. State of North Carolina, Russell Ginn, Superintendent, Roy Cooper, Attorney General, Respondents	Petitioner's <i>Pro Se</i> Petition for Writ of Habeas Corpus	Denied 11/14/03
591P03	State v. Norman Wayne Jones	<p>1. AG's Motion for Temporary Stay</p> <p>2. AG's Petition for Writ of Supersedeas</p> <p>3. AG's Petition for Discretionary Review Under N.C.G.S. §7A-31 (COA02-1404)</p>	<p>1. Allowed 11/13/03</p> <p>2. Allowed 11/24/03</p> <p>3. Allowed 11/24/03</p>
597P03	Kenneth McHam v. North Carolina Mutual Life Insurance Company	<p>1. Plt's PWC to Review the Decision of the COA (COA99-1458)</p> <p>2. Def's Motion for Extension of Time to File Response on 11/24/03</p>	<p>1. Denied 11/19/03</p> <p>2. Dismissed as moot 11/19/03</p> <p>Edmunds, J., recused</p>
599P03	Kelvin W. Sellars-El v. Theodis Beck, Secretary of the North Carolina Department of Correction, et al.	Plt's <i>Pro Se</i> PWC to Review the Order of the COA (COAP03-876)	Denied
600P03	Ellen Fernandes v. Martin L. Herring	1. Def's <i>Pro Se</i> Motion for Temporary Stay of Execution and Enforcement of Child	1. Denied 11/21/03

		<p>Support Enforcement Orders Pending Appeal</p> <p>2. Def's <i>Pro Se</i> Petition for Writ of Supersedeas</p> <p>3. Def's <i>Pro Se</i> PWC to Review the Orders of the COA (COAP03-753)</p> <p>4. Def's <i>Pro Se</i> Motion to Proceed <i>In Forma Pauperis</i></p>	<p>2. Denied 11/21/03</p> <p>3. Denied 11/21/03</p> <p>4. Allowed 11/21/03</p>
601P03	State v. Corey Tyrone Sneed	<p>1. AG's Motion for Temporary Stay</p> <p>2. AG's Petition for Writ of Supersedeas</p> <p>3. AG's PDR Under N.C.G.S. § 7A-31 (COA02-1746)</p>	<p>1. Allowed 11/25/03</p> <p>2. Allowed 11/25/03</p> <p>3. Allowed 11/25/03</p>
602P03	John Lee Burns v. Selma P. Townes, Superintendent, Franklin Correctional Center, State of North Carolina	<p>1. Plt's <i>Pro Se</i> PWC to Review the Order of the Superior Court</p> <p>2. Plt's <i>Pro Se</i> Motion for Preparation of Stenographic Transcript</p> <p>3. Plt's <i>Pro Se</i> Motion for New Sentencing Hearing</p> <p>4. Plt's <i>Pro Se</i> Motion to Proceed <i>In Forma Pauperis</i></p>	<p>1. Dismissed</p> <p>2. Denied</p> <p>3. Denied</p> <p>4. Allowed</p> <p>5. Denied</p>

		5. Plt's <i>Pro Se</i> Motion for Evidentiary Hearing	
603P03	Waymare Billups v. Theodore Beck; Boyd Bennett; Ernest Sutton; Walter G. Edwards, Jr.	1. Plt's <i>Pro Se</i> PWC to Review the Order of the COA (COAP03-933) 2. Plt's <i>Pro Se</i> PWC to Review the Order of the Superior Court 3. Plt's <i>Pro Se</i> Motion and Request for Speedy Disposition for Dismissal or Termination of Convictions if Not Ruled Upon Within 60 Days 4. Plt's <i>Pro Se</i> Motion to Proceed <i>In Forma Pauperis</i> 5. Plt's <i>Pro Se</i> PWC to Review the Order of the Superior Court	1. Dismissed 2. Dismissed 3. Denied 4. Allowed 5. Dismissed
606P03	State v. Shawn Holliman	Petitioner's Petition for Writ of Habeas Corpus	Denied 11/20/03
619P03	State v. David Baldwin	1. AG's Motion for Temporary Stay 2. AG's Petition for Writ of Supersedeas	1. Allowed 11/26/03 2.
653A02	North Carolina Forestry Association, Petitioner v. North Carolina Department of Environment and Natural Resources, Division of Water	1. Petitioner's Motion to Strike Respondents' Notice of Additional Information Relating to Mootness	1. Dismissed 2. Dismissed

	Quality, and the North Carolina Environmental Management Commission and its NPDES Committee, Respondents and The Sierra Club and Dogwood Alliance, Respondent-Intervenors	2. Petitioner's Motion to File Reply Brief to the Notice and Amendment	
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