

IN THE SUPREME COURT OF NORTH CAROLINA

No. 505PA10

FILED 27 JUNE 2013

STATE OF NORTH CAROLINA

v.

DAVID FRANKLIN HURT

On discretionary review pursuant to N.C.G.S. § 7A-31 of a unanimous decision of the Court of Appeals, 208 N.C. App. 1, 702 S.E.2d 82 (2010), finding prejudicial error in a judgment entered on 4 April 2008 by Judge Thomas D. Haigwood in Superior Court, Caldwell County, and remanding for a new sentencing trial. Heard in the Supreme Court on 12 February 2013.

Roy Cooper, Attorney General, by Daniel P. O'Brien, Assistant Attorney General, for the State-appellant.

Staples S. Hughes, Appellate Defender, by Barbara S. Blackman, Assistant Appellate Defender, for defendant-appellee.

PER CURIAM.

For the reasons stated in *State v. Ortiz-Zape*, ___ N.C. ___, ___, ___ S.E.2d ___, ___ (2013), the decision of the Court of Appeals is reversed. The case is remanded for consideration of the remaining issues on appeal.

REVERSED AND REMANDED.

Chief Justice PARKER and Justice HUDSON dissent for the reasons stated in Justice Hudson's dissenting opinions in *State v. Ortiz-Zape*, ___ N.C. ___, ___

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S.E.2d ___ (2013) (329PA11) and *State v. Brewington*, ___ N.C. ___, ___ S.E.2d ___ (2013) (235PA10).

Justice BEASLEY did not participate in the consideration or decision of this case.