## IN THE SUPREME COURT OF NORTH CAROLINA

## No. 106A02

## FILED: 22 NOVEMBER 2002

STATE OF NORTH CAROLINA

v.

DULAINE LOTHARP

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 148 N.C. App. 435, 559 S.E.2d 807 (2002), ordering a new trial after appeal from judgments entered 26 May 2000 by Beale, J., in Superior Court, Union County. Heard in the Supreme Court 14 October 2002.

> Roy Cooper, Attorney General, by Robert M. Curran, Assistant Attorney General, for the State-appellant.

Marjorie S. Canaday for defendant-appellee.

Smith Moore LLP, by Julia F. Youngman, on behalf of the American Civil Liberties Union of North Carolina Legal Foundation, amicus curiae.

PER CURIAM.

The decision of the Court of Appeals is reversed for the reasons stated in the dissenting opinion.

REVERSED.