

IN THE SUPREME COURT OF NORTH CAROLINA

No. 396A09

FILED: 8 OCTOBER 2010

STATE OF NORTH CAROLINA

v.

EDWARD JUNIOR WAGONER

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, ___ N.C. App. ___, 683 S.E.2d 391 (2009), affirming an order entered on 19 February 2008 by Judge Henry E. Frye, Jr. in Superior Court, Wilkes County. On 1 February 2010, defendant filed a motion for appropriate relief in this Court. Heard in the Supreme Court 17 February 2010.

Roy Cooper, Attorney General, by Yvonne B. Ricci, Assistant Attorney General, for the State.

Richard E. Jester for defendant-appellant.

PER CURIAM.

For the reasons stated in *State v. Bowditch*, ___ N.C. ___, ___ S.E.2d ___, slip op. (Oct. 8, 2010) (No. 448PA09), the decision of the Court of Appeals is affirmed.

AFFIRMED.

Chief Justice Parker and Justices Timmons-Goodson and Hudson dissent for the reasons stated in the dissenting opinion in *State v. Bowditch*, ___ N.C. ___, ___ S.E.2d ___ (Oct. 8, 2010) (No. 448PA09).