

STATE OF NORTH CAROLINA v. EDDIE CAPLE

No. 437A05-2

FILED: 7 MARCH 2008

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 185 N.C. App. ___, 650 S.E.2d 8 (2007), which, upon defendant's appeal from a judgment entered on 7 January 2004 by Judge B. Craig Ellis in Superior Court, Robeson County, remanded the case to the trial court for resentencing after being ordered by this Court to reconsider in light of *State v. Blackwell*, 361 N.C. 41, 638 S.E.2d 452 (2006), cert. denied, ___ U.S. ___, 127 S. Ct. 2281, 167 L. Ed. 2d 1114 (2007), its previous decision to remand for resentencing. Heard in the Supreme Court 13 February 2008.

Roy Cooper, Attorney General, by Derrick C. Mertz, Assistant Attorney General, for the State-appellant.

Paul F. Herzog for defendant-appellee.

PER CURIAM.

Justice HUDSON took no part in the consideration or decision of this case. The remaining members of the Court are equally divided, with three members voting to affirm and three members voting to reverse the decision of the Court of Appeals. Accordingly, the decision of the Court of Appeals is left undisturbed and stands without precedential value. *See, e.g., Barham v. Hawk*, 360 N.C. 358, 625 S.E.2d 778 (2006).

AFFIRMED.