

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.

REVERSED.

Chief Justice Parker and Justice Hudson dissent for the reasons stated in Justice Hudson's dissenting opinions in *State v. Ortiz-Zape*, ___ N.C. ___, ___ S.E.2d ___ (2013) (329PA11) and *State v. Brewington*, ___ N.C. ___, ___ S.E.2d ___ (2013)

STATE V. HURT

Opinion of the Court

(235PA10). Justice BEASLEY did not participate in the consideration or decision of this case.