

IN THE SUPREME COURT OF NORTH CAROLINA

No. 529A11-2

FILED 14 DECEMBER 2012

STATE OF NORTH CAROLINA

v.

FELIPE ALFARO RICO

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. ___, 720 S.E.2d 801 (2012), vacating a judgment entered on 18 March 2010 and an order denying defendant's motion for appropriate relief entered on 19 March 2010, both by Judge Russell J. Lanier, Jr. in Superior Court, Sampson County, and remanding for a new sentencing hearing. Heard in the Supreme Court on 16 October 2012.

Roy Cooper, Attorney General, by Kathleen N. Bolton, Assistant Attorney General, for the State-appellant.

Staples S. Hughes, Appellate Defender, by Daniel R. Pollitt, Assistant Appellate Defender, for defendant-appellee.

PER CURIAM.

For the reasons stated in the dissenting opinion, we reverse the decision of the Court of Appeals. This case is remanded to the Court of Appeals for further remand to the Superior Court of Sampson County for disposition on the original charge of murder.

REVERSED IN PART AND REMANDED; NEW TRIAL.