

No \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

RICKY D. WAGNER, PETITIONER

vs

STATE OF NORTH CAROLINA - RESPONDENT(S)

APPENDICES



# Supreme Court of North Carolina

Fax: (919) 831-5720  
Web: <https://www.nccourts.gov>

AMY L. FUNDERBURK, Clerk  
Justice Building, 2 E. Morgan Street  
Raleigh, NC 27601  
(919) 831-5700

Mailing Address:  
P. O Box 2170  
Raleigh, NC 27602

From N.C. Court of Appeals  
( P17-575 )  
From Wilkes  
( 04CRS4702 04CRS50956 )

6 February 2019

Mr. Ricky D. Wagoner  
Pro Se  
545 Amity Park Road  
#0860780  
Spruce Pine, NC 28777

**RE: State v Ricky Daniel Wagoner - 326P17-2**

Dear Mr. Wagoner:

The following order has been entered on the motion filed on the 8th of November 2018 by Defendant for Petition for Discretionary Review:

"Motion Denied by order of the Court in conference, this the 30th of January 2019."

**s/ Earls, J.  
For the Court**

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 6th day of February 2019.

Amy L. Funderburk  
Clerk, Supreme Court of North Carolina

M. C. Hackney  
Assistant Clerk, Supreme Court Of North Carolina

Copy to:  
North Carolina Court of Appeals  
Mr. Ricky D. Wagoner, For Wagoner, Ricky D.  
Ms. Kimberly N. Callahan, Assistant Attorney General, For State of North Carolina - (By Email)  
Mr. Tom Horner, District Attorney  
Hon. Regina Billings, Clerk  
West Publishing - (By Email)  
Lexis-Nexis - (By Email)

*APPENDIX A*



# Supreme Court of North Carolina

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6 February 2019

Mr. Ricky D. Wagoner  
Pro Se  
545 Amity Park Road  
#0860780  
Spruce Pine, NC 28777

**RE: State v Ricky Daniel Wagoner - 326P17-2**

Dear Mr. Wagoner:

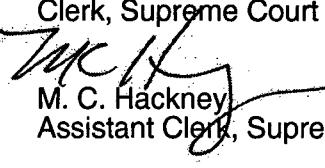
The following order has been entered on the motion filed on the 8th of November 2018 by Defendant for Notice of Appeal:

"Motion Dismissed Ex Mero Motu by order of the Court in conference, this the 30th of January 2019."

**s/ Earls, J.  
For the Court**

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 6th day of February 2019.

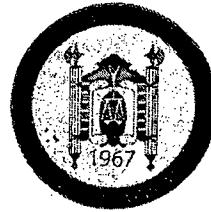
Amy L. Funderburk  
Clerk, Supreme Court of North Carolina

  
M. C. Hackney  
Assistant Clerk, Supreme Court Of North Carolina

Copy to:

North Carolina Court of Appeals  
Mr. Ricky D. Wagoner, For Wagoner, Ricky D.  
Ms. Kimberly N. Callahan, Assistant Attorney General, For State of North Carolina - (By Email)  
Mr. Tom Horner, District Attorney  
Hon. Regina Billings, Clerk  
West Publishing - (By Email)  
Lexis-Nexis - (By Email)

*APPENDIX B*



## North Carolina Court of Appeals

Fax: (919) 831-3615  
Web: <https://www.nccourts.gov>

DANIEL M. HORNE JR., Clerk  
Court of Appeals Building  
One West Morgan Street  
Raleigh, NC 27601  
(919) 831-3600

Mailing Address:  
P. O. Box 2779  
Raleigh, NC 27602

**No. P17-575**

**STATE OF NORTH CAROLINA**  
**VS**  
**RICKY D. WAGONER**

From Wilkes  
( 04CRS4702 04CRS50956 )

### ORDER

The following order was entered:

The petition filed in this cause by defendant Ricky Daniel Wagoner on 19 October 2018 is dismissed due to defendant's failure to attach sufficient supporting documents. See N.C.R. App. P. 21(c).

By order of the Court this the 23rd of October 2018.

The above order is therefore certified to the Clerk of the Superior Court, Wilkes County.

WITNESS my hand and the seal of the North Carolina Court of Appeals, this the 23rd day of October 2018.

• Daniel M. Horne Jr.  
Clerk, North Carolina Court of Appeals

Copy to:  
Attorney General, For State of North Carolina  
Mr. Ricky D. Wagoner, For Wagoner, Ricky D.  
Ms. Kimberly N. Callahan, Assistant Attorney General  
Hon. Janet D. Handy, Clerk of Superior Court

*Attachment #1*

NORTH CAROLINA  
WILKES COUNTY

IN THE GENERAL COURT OF JUSTICE  
FILED SUPERIOR COURT DIVISION

2018 JUL 27 FILE NOS. 04 CRS 50956 &

04 CRS 4702

WILKES *dc*, C.S.C.

BY \_\_\_\_\_

STATE OF NORTH CAROLINA )

)

VS. )

**ORDER**

)

RICKY DANIEL WAGONER, )

Defendant. )

**THIS MATTER** was heard in chambers by the undersigned Judge as a result of the defendant's Motion for Appropriate Relief filed in the office of the Clerk of Court on or about May 1, 2018.

**THE UNDERSIGNED** Senior Resident Superior Court Judge carefully reviewed the record proper, the defendant's Motion for Appropriate Relief (all sixty seven (67) pages not counting attachments), and the claims and issues raised by the defendant.

**ALL CLAIMS** raised by this defendant in the most recent Motion for Appropriate Relief, hereinafter referred to as "MAR", are procedurally defaulted under North Carolina General Statute 15A-11419(a) because the defendant was in a position in a prior MAR to raise these claims and did not do so or these are the same claims that have already been ruled upon in prior Orders of this Court. The claims and requests made in the motion should be denied because they have no merit.

**IT APPEARS** the defendant is again claiming ineffective assistance of counsel, unknowing and involuntary waiver of right to Grand Jury Indictment and that the guilty pleas were unsupported by sufficient factual basis. These

*Appendix F*

claims have previously been made by the defendant in an MAR filed in the Clerk's office on March 15, 2005. Additionally, the defendant now claims that he has been denied Due Process of Law as a result of the Honorable Michael E. Helms denying his previous MAR by Order dated April 20, 2005.

**CONSISTENT** with G.S. 15A-1419(b)(1) and (2), this Court concludes that the defendant has not demonstrated good cause for excusing the procedural default and the defendant has not demonstrated that failure to consider the defendant's claim will result in a fundamental miscarriage of justice.

**THE COURT** finds and concludes that there is no merit in the most recent MAR. Accordingly, no evidentiary hearing or appointment of counsel is necessary.

**THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED** that the defendant's Motion for Appropriate Relief received by this Court on or about May 1, 2018 is hereby summarily denied and dismissed.

A copy of this Order shall be mailed to the defendant, to Assistant District Attorney Leigh C. Bricker, and to the N.C. Department of Correction.

This the 26 day of July, 2018.



\_\_\_\_\_  
Michael D. Duncan  
Senior Resident Superior Court Judge  
23<sup>rd</sup> Judicial District

(SA)

**Additional material  
from this filing is  
available in the  
Clerk's Office.**