

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 974

Short Title: Capital Case Appeals.

(Public)

Sponsors: Representative Pate.

Referred to: Judiciary II.

April 12, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT THE COURT OF APPEALS SHALL HEAR APPEALS
2 IN CRIMINAL CASES IN WHICH LIFE SENTENCES ARE IMPOSED, TO
3 PROVIDE THAT A DIRECT APPEAL OF RIGHT TO THE SUPREME COURT
4 EXISTS ONLY WHEN A SENTENCE OF DEATH IS IMPOSED, AND TO
5 REPEAL THE REQUIREMENT OF A PROPORTIONALITY REVIEW ON
6 DIRECT APPEAL.
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8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 7A-27 reads as rewritten:

10 **"§ 7A-27. Appeals of right from the courts of the trial divisions.**

11 (a) Appeal lies of right directly to the Supreme Court in all cases in which the
12 defendant is convicted of murder in the first degree and the judgment of the superior
13 court includes a sentence of ~~death or imprisonment for life.~~ death.

14 (b) From any final judgment of a superior court, other than the one described in
15 subsection (a) of this section, or one based on a plea of guilty or nolo contendere,
16 including any final judgment entered upon review of a decision of an administrative
17 agency, appeal lies of right to the Court of Appeals.

18 (c) From any final judgment of a district court in a civil action appeal lies of right
19 directly to the Court of Appeals.

1 (d) From any interlocutory order or judgment of a superior court or district court in
2 a civil action or proceeding which

3 (1) Affects a substantial right, or

4 (2) In effect determines the action and prevents a judgment from which
5 appeal might be taken, or

6 (3) Discontinues the action, or

7 (4) Grants or refuses a new trial, appeal lies of right directly to the Court of
8 Appeals.

9 (e) From any other order or judgment of the superior court from which an appeal
10 is authorized by statute, appeal lies of right directly to the Court of Appeals."

11 Sec. 2. G.S. 15A-2000(d) reads as rewritten:

12 "(d) Review of Judgment and Sentence. –

13 (1) The judgment of conviction and sentence of death shall be subject to
14 automatic review by the Supreme Court of North Carolina pursuant to
15 procedures established by the Rules of Appellate Procedure. In its
16 review, the Supreme Court shall consider the punishment imposed as
17 well as any errors assigned on appeal.

18 (2) The sentence of death shall be overturned and a sentence of life
19 imprisonment imposed in lieu thereof by the Supreme Court upon a
20 finding that the record does not support the jury's findings of any
21 aggravating circumstance or circumstances upon which the sentencing
22 court based its sentence of death, or upon a finding that the sentence of
23 death was imposed under the influence of passion, prejudice, or any
24 other arbitrary factor, ~~or upon a finding that the sentence of death is~~
25 ~~excessive or disproportionate to the penalty imposed in similar cases,~~
26 ~~considering both the crime and the defendant. The Supreme Court may~~
27 ~~suspend consideration of death penalty cases until such time as the court~~
28 ~~determines it is prepared to make the comparisons required under the~~
29 ~~provisions of this section.~~ factor.

30 (3) If the sentence of death and the judgment of the trial court are reversed
31 on appeal for error in the post-verdict sentencing proceeding, the
32 Supreme Court shall order that a new sentencing hearing be conducted
33 in conformity with the procedures of this Article."

34 Sec. 3. This act becomes effective December 1, 1995, and applies to cases
35 tried on or after that date.