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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to the Court of Appeals  
Appeal From Clarendon County  
Hon. R. Ferrell Cothran, Jr., Circuit Court Judge  
Appellate Case No. 2022-001025  
\_\_\_\_\_

The State,

Respondent,

v.

Tammy Dianne Brown,

Petitioner.

\_\_\_\_\_  
Opinion No. 5914 (S.C. Ct. App. filed May 25, 2022)  
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**RETURN TO PETITION FOR WRIT OF CERTIORARI  
TO THE COURT OF APPEALS**

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## STATEMENT OF QUESTIONS PRESENTED

I. The Court of Appeals correctly affirmed the trial court's denial of Petitioner's motion to quash or dismiss the indictments because they provided the requisite notice to Petitioner.

II. The Court of Appeals correctly found the blood sample was properly admitted into evidence because there was evidence to support the trial court's determination Petitioner did not request an independent sample for testing and even if she did request a sample, the officers provided all the required assistance under section 56-5-2950(E) of the South Carolina Code.

III. The Court of Appeals correctly concluded the trial judge properly admitted testimony regarding Petitioner's blood alcohol level because neither section 56-5-2950 nor section 56-5-2953 require the State to video record the taking of a blood sample.

## STATEMENT OF THE CASE

### **Procedural History**

In March 2018, the Clarendon County Grand Jury indicted Appellant for one count of felony driving under the influence resulting in death and one count of felony driving under the influence resulting in great bodily injury (R. 710-11). On May 14-18, 2018, a jury trial was held in the Clarendon County Court of General Sessions with the Honorable R. Ferrell Cothran, Jr., presiding. At the conclusion of trial, the jury convicted Appellant of both counts. Following the verdict, the trial judge sentenced Appellant to a term of fifteen years' imprisonment for felony driving under the influence resulting in death and twelve years' imprisonment for felony driving under the influence resulting in great bodily injury. The sentences ran concurrently with each other resulting in an aggregate sentence of fifteen years' imprisonment. Appellant served and filed a Notice of Appeal.

After briefing and oral argument, the Court of Appeals affirmed Petitioner's convictions and sentences. Petitioner served and filed a Petition for Rehearing, which was denied by the panel on June 23, 2022. Petitioner served and filed a Petition for Writ of Certiorari on July 22, 2022, and this Return follows.

### **Factual Background**

Just before midnight on August 30, 2014, Appellant drove her White Hyundai Tiburon east on Highway 261 from Paxville towards Manning. (R. 212). Around the same time, Guillermo Lopez-Arenas was driving a black Dodge Dakota pickup truck along with his passenger Arturo Murrieta-Blas. The black truck turned from Home Branch Road onto Highway 261 to head east. As the black pickup turned, Appellant's vehicle collided with the rear end of the pickup and caused the truck to crash into a tree. (R. 274, 467, 703). Arenas was pronounced

dead on the scene by Coroner, Hayes Samuels. (R. 220-21, 327-28). Blas was transported by helicopter to the hospital in Florence where he underwent emergency surgery. (R. 194-97, 220-21). Blas spent the next two months in the hospital. (R. 195).

The driver of the white Hyundai was identified as Appellant. (R. 209). When Trooper Jeffrey Minnix of the South Carolina Highway Patrol arrived at the scene of the wreck, Appellant was already in the back of an ambulance receiving treatment from EMS. (R. 209). Minnix positioned his car as close as possible to the wreck but was unable to get very close because of the way the vehicles of other first responders were parked at the scene. (R. 203). Because of the distance of Minnix's car from the ambulance and the limited capabilities of his car's camera system, Minnix's interaction with Appellant was not recorded. (R. 207-09). Minnix interviewed Appellant in the back of the ambulance. (R. 216-17). While interviewing Appellant, EMS informed Minnix that Appellant needed to be transported to the hospital. Therefore, Minnix did not request Appellant to perform any field sobriety tests. (R. 95, 219). Minnix observed that Appellant's eyes were bloodshot and she had an odor of alcohol coming from her person. (R. 216-17). Appellant initially told Minnix she had consumed two shots of tequila, but then revised her statement and said she drank wine coolers instead. (R. 205, 217-18). Appellant admitted that the clear cup in the floorboard of her car previously contained a wine cooler that her friend made her for the road. (R. 205).

Appellant was transported to Clarendon Memorial Hospital for evaluation. At the hospital, she was interviewed again by Minnix and Trooper Paige Dubose. (R. 222, 314-15). Appellant was placed under arrest at the hospital and was read her Miranda rights and her implied consent rights. (R. 224, 315, 708). Appellant declined to voluntarily provide Minnix and Dubose with a blood sample. (R. 225). Minnix remained with Appellant at the hospital while

Dubose left to obtain a search warrant for Appellant's blood sample from the on call magistrate. Dubose met with Judge Robin Locklair at Locklair's home where she provided sworn oral testimony to establish probable cause for the search warrant. (R. 152-53, 318-19). Judge Locklair issued the search warrant. (R. 154, 704-07).

Dubose returned to the hospital with the search warrant and Minnix asked for the assistance of hospital phlebotomist, Angela Floyd, to draw the blood sample. (R. 228). Minnix utilized the SLED blood and urine collection form to inform Appellant of her right to an independent blood sample. (R. 228-32, 702). Appellant refused to sign the blood collection report. (R. 231, 324). Two vials of Appellant's blood were collected and given to Minnix. (R. 234, 381-83). The portion of the blood collection report regarding Appellant's right to an independent blood test was checked in error by Floyd. (R. 378-79, 384, 702). According to Floyd, Minnix, and Dubose, Appellant never requested an independent blood sample in their presence. (R. 232-33, 325-26, 380, 385). Appellant acknowledged at trial that she never made a direct request to law enforcement for an independent sample. (R. 167). Appellant's blood was transported to SLED where it was analyzed by forensic toxicologist Kelly Budgen. According to Budgen's analysis, Appellant had a .210 blood alcohol concentration. (R. 423).

At trial, the State called Lance Corporal Bryan Ridgeway of the South Carolina Highway Patrol as an expert witness in accident reconstruction. (R. 465-66). The speed limit in the intersection where the accident occurred was 45 miles per hour. (R. 212-14). Ridgeway estimated that Appellant's vehicle was traveling at 64.6 miles per hour when she began to break and 55.92 miles per hour when her vehicle hit the black pickup truck. (R. 511, 513). According to Ridgeway, the wreck would not have occurred if Appellant had been traveling within the posted speed limit. (R. 531). Appellant was convicted of both counts at the conclusion of trial.

## ARGUMENT

### **I. The Court of Appeals correctly affirmed the trial court's denial of Petitioner's motion to quash or dismiss the indictments because they provided the requisite notice to Petitioner.**

The Court of Appeals correctly found the indictments sufficient to provide Petitioner with the requisite notice and that the trial court properly denied the motion to quash or dismiss. Appellant contends the indictments should have been quashed and her case dismissed because they failed to specifically allege the traffic law Appellant violated, which is an element of section 56-5-2945. The language in Appellant's indictments closely mirrors the language of the statute Appellant is charged with violating, S.C. Code § 56-5-2945. Additionally, the indictments provided the requisite notice to Appellant and the State was not required to establish the specific facts demonstrating the "act forbidden by law" committed by Petitioner or the "duty imposed by law" neglected by Petitioner which led to the death or great bodily injury of her victims.

#### **Standard of Review**

"The trial court's factual conclusions as to the sufficiency of an indictment will not be disturbed on appeal unless so manifestly erroneous as to show an abuse of discretion. State v. Tumbleston, 376 S.C. 90, 94, 654 S.E.2d 849, 851 (Ct. App. 2007). "An abuse of discretion occurs when the trial court's ruling is based on an error of law or a factual conclusion without evidentiary support." Id. "Accordingly, an appellate court is bound by the trial court's factual findings when the findings are supported by the evidence and not controlled by error of law." Id.

#### **Merits**

An indictment is a notice document. State v. Gentry, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005). "The primary purpose of an indictment is threefold: to put the defendant on notice of the elements of the offense; to allow him to decide whether to plead guilty or stand trial; and to

enable the trial court to know what judgment to pronounce following a conviction.” State v. Lewis, 434 S.C. 158, 172, 863 S.E.2d 1, 8 (2021) (citing Evans v. State, 363 S.C. 495, 508, 611 S.E.2d 510, 517 (2005)). A trial judge should judge the sufficiency of an indictment by determining whether “the offense is stated with sufficient certainty and particularity . . . .” Gentry, 363 S.C. at 102-103, 610 S.E.2d at 500. “In determining whether an indictment meets the sufficiency standard, the court must look at the indictment with a practical eye in view of all the surrounding circumstances.” Id. at 103, 610 S.E.2d at 500. “[O]ne is to look at the ‘surrounding circumstances’ that existed pre-trial, in order to determine whether a given defendant has been ‘prejudiced,’ i.e., taken by surprise and hence unable to combat the charges against him.” State v. Baker, 411 S.C. 583, 589, 769 S.E.2d 860, 864 (2015) (quoting State v. Wade, 306 S.C. 79, 86, 409 S.E.2d 780, 784 (1991)).

“Every indictment shall be deemed and judged sufficient and good in law which, in addition to allegations as to time and place, as required by law, charges the crime substantially in the language of the common law or of the statute prohibiting the crime.” S.C. Code § 17-19-20. “[W]hether the indictment could be more definite or certain is irrelevant.” Id. “[T]he true test of an indictment’s validity is not whether it could be made more definite and certain, but whether it contains the necessary elements of the offense intended to be charged and sufficiently apprises the defendant of what he must be prepared to meet.” State v. Smalls, 336 S.C. 301, 307, 519 S.E.2d 793, 796 (Ct. App. 1999). As this Court recently explicated: “Notably, the threshold for an indictment to be valid is generally not high.” Lewis, 434 S.C. at 173, 863 S.E.2d at 9 (citing United States v. Bates, 96 F.3d 964, 970 (7th Cir. 1996), *aff’d*, 522 U.S. 23, 118 S.Ct. 285, 139 L.Ed.2d 215 (1997) (“Facial sufficiency is not a high hurdle. Indictments need not exhaustively

describe the facts surrounding a crime's commission nor provide lengthy explanations of the elements of the offense.”)).

Here, Appellant was charged with one count of felony driving under the influence resulting in death and one count of felony driving under the influence resulting in great bodily injury pursuant to S.C. Code § 56-5-2945. S.C. Code § 56-5-2945(A) provides:

A person who, while under the influence of alcohol, drugs, or the combination alcohol and drugs, drives a motor vehicle and when driving a motor vehicle does any act forbidden by law or neglects any duty imposed by law in the driving of a motor vehicle, which act or neglect proximately causes great bodily injury or death to another person, is guilty of the offense of felony driving under the influence.

S.C. Code § 56-5-2945(A). Appellant was indicted for two counts of violating the aforementioned statute. Appellant's indictment contained the following language:

That in Clarendon County, South Carolina, on or about August 30, 2014, while driving a vehicle under the influence or alcohol, drugs or a combination of alcohol and drugs, [Appellant] did an act forbidden by law or neglected a duty imposed by law in the driving of said vehicle; and such act proximately caused the death of Guillermo Lopez-Arenas; all in violation of Section 56-5-2945, S.C. Code of Laws (1976, as amended).

(R. 711). The second count of Appellant's indictment contains identical language to the first count except it alleges that Appellant “caused great bodily injury to Arturo Murrieta-Blas.” (R. 711).

Appellant's indictments notified Appellant that she was charged with violating S.C. Code § 56-5-2945 and that by violating § 56-5-2945 she committed the offenses of felony driving under the influence resulting in death and great bodily injury. The indictments closely resembled the language of the statute and enabled Appellant to know what she was called upon to answer.

While the State could have added more detail to the indictment by specifically alleging what act Appellant did in her motor vehicle or what duty she neglected, the State was not

required to do so. This is similar to the argument expounded in Lewis, arguing the indictment was insufficient because it did not list “how” funds were misused. This Court concluded:

While it may have been preferable for the State to have articulated the precise acts that demonstrated the “misuse [of] public resources,” or the “abuse [of] power and authority of his office,” we agree with the State that it was not required to go so far as to list the specific theory as to how Lewis committed statutory misconduct.

Lewis, 434 S.C. at 173, 863 S.E.2d at 9 (citing State v. Hammonds, 30 S.W.3d 294, 300 (Tenn. 2000) (“[A]n indictment need not allege the specific theory or means by which the State intends to prove each element of an offense to achieve the overriding purpose of notice to the accused.”)). Petitioner knew the charges against her and the failure to include her violation of the speed limit did not impact her notice.

Finally, as this Court also concluded in Lewis: “even if the indictment was questionable, further specificity was available by reviewing the discovery materials.” Id. at 173–74, 863 S.E.2d at 9. The evidence from the State turned over in discovery made it abundantly clear the underlying offense was speeding. As the solicitor noted to the court:

However, in this case, Your Honor, it is certainly no secret that the law that Mrs. Brown violated is speed, that’s referenced throughout the discovery that’s been provided to Mr. Barr. It’s in big black and white letters on the reports issued by the MAIT team. . . . Mr. Barr has received ample discovery from the State with references to the exact speed that his client was alleged to have been traveling at the time of this accident the speed limit for that area, so she certainly -- Mr. Barr certainly been notified. Ms. Brown certainly aware of the act that the State alleges that she violated in this case.

(R.13-14). Accordingly, there is no doubt Appellant had sufficient notice to support the trial court’s decision to deny the motion to quash or dismiss and the Court of Appeals properly affirmed. This Court should deny the Petition for Writ of Certiorari as to this Question.

**II. The Court of Appeals correctly found the blood sample was properly admitted into evidence because there was evidence to support the trial court's determination. Petitioner did not request an independent sample for testing and even if she did request a sample, the officers provided all the required assistance under section 56-5-2950(E) of the South Carolina Code.**

The Court of Appeals correctly found the trial court properly admitted the blood sample and analysis results into evidence. Appellant did not request an independent blood sample be taken for analysis. However, even if Appellant had requested an independent sample, law enforcement was not required to provide Appellant any further assistance to obtain a sample because Appellant was already at a hospital. Because Appellant was already at a hospital, law enforcement satisfied the affirmative assistance requirement articulated in S.C. Code § 56-5-2950(E). Therefore, the trial judge did not abuse his discretion in admitting the analysis of Appellant's blood sample.

Initially, Appellant never requested law enforcement assist her with obtaining her own independent sample for testing. The request is a prerequisite to any requirement law enforcement provide affirmative assistance, and without a specific request to law enforcement, the test results should not be suppressed for failing to provide assistance. See S.C. Code Ann. § 56-5-2950(E) ("The arresting officer shall provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance, at a minimum, includes providing transportation for the person to the nearest medical facility which performs blood tests to determine a person's alcohol concentration. . . . Failure to provide affirmative assistance **upon request to obtain additional tests** bars the admissibility of the breath test result in a judicial or administrative proceeding." (emphasis added)).

The evidence, including Appellant's own testimony, indicates she never made an affirmative request to law enforcement for her own independent blood sample and testing. Prior to drawing a blood sample from Appellant, Minnix read Appellant's implied consent rights to her using the SLED implied consent rights form. (R. 224, 315, 708). The rights on the SLED form included the following "You have the right to have a qualified person of your own choosing conduct additional independent tests at your expense and the officer, upon request, must provide you affirmative assistance." (R. 708). Minnix also filled out a SLED urine/blood collection report form before taking Appellant's blood sample. (R. 228-32, 702). A box on the SLED form which reads: "A blood sample is requested by the subject for his/her own independent test" was checked in error by Floyd. (R. 378-79, 384, 702). Appellant refused to sign the form and otherwise made no markings on the form. (R. 231, 324). In fact, Dubose, Minnix, and Floyd each testified that Appellant never made a request for an independent sample in their presence. (R. 232-33, 325-26, 380, 385). Appellant acknowledged she never told law enforcement that she wanted her own sample or needed to get her own testing done. (R.167). At most, she claimed the nurse told her she could have her own sample and she "told her okay."<sup>1</sup> (R.162). This is not the same as an affirmative request to law enforcement and was directly refuted by the testimony of the phlebotomist. (R.380; 385). As a result, the trial court did not err in denying the motion to suppress because the prerequisite of a request to law enforcement for an independent blood sample and testing was never made.

Section 56-5-2950(A) of the South Carolina Code states that anyone who drives a motor vehicle in the State of South Carolina "is considered to have given consent to chemical tests of

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<sup>1</sup> "Okay" is not an unequivocal request for a sample. Even if said by Petitioner, it could have been merely an acknowledgement of the right to her own sample and not a request to obtain her own independent sample and testing.

the person's breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or the combination of alcohol and drugs" if they are arrested for a DUI related offense. The statute also mandates that a person arrested for DUI must be offered a breath test first, but "if the person is physically unable to provide an acceptable breath sample because the person has an injured mouth, is unconscious or dead, or for any other reason considered acceptable by the licensed medical personnel, the arresting office may request a blood sample to be taken" S.C. Code § 56-5-2950(A). However, in the case of a felony DUI our Supreme Court has held that law enforcement may order a person suspected of felony DUI to submit to a chemical test before offering a breath test. State v. Long, 363 S.C. 360, 364, 610 S.E.2d 809, 812 (2005). Before law enforcement may administer a breath test or take a blood sample, the person must be informed verbally and given a written copy of rights that specify, among other things, that "the person has the right to have a qualified person of the person's own choosing conduct additional independent tests at the person's expense." S.C. Code § 56-5-2950(B)(3).

Law enforcement must provide affirmative assistance to a person who requests independent testing. Section 56-5-2950(E) provides:

The arresting officer shall provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance, at a minimum, includes providing transportation for the person to the nearest medical facility which performs blood tests to determine a person's alcohol concentration. If the medical facility obtains the blood sample but refuses or fails to test the blood sample to determine the person's alcohol concentration, SLED shall test the blood sample and provide the result to the person and to the arresting officer. Failure to provide affirmative assistance upon request to obtain additional tests bars the admissibility of the breath test result in a judicial or administrative proceeding.

S.C. Code § 56-5-2950(E).

Even if Appellant had requested an independent sample and testing of her blood, law enforcement had no further requirement to provide additional affirmative assistance because she

already was in a hospital and having her blood drawn by a medical facility who could perform the test. There was nothing more that law enforcement could do to provide assistance—she was at Clarendon Memorial Hospital and having her blood taken. Law enforcement clearly satisfied the minimum requirements for affirmative assistance under section 56-5-2950 because she was at the nearest medical facility capable of drawing blood. As a result, the trial court did not err in admitting the sample because there was no basis to suppress under section 56-5-2950(E). The Court of Appeals properly affirmed the trial court’s determination, and this Court should deny the Petition for Writ of Certiorari as to this Question.

**III. The Court of Appeals correctly concluded the trial judge properly admitted testimony regarding Petitioner's blood alcohol level because neither section 56-5-2950 nor section 56-5-2953 require the State to video record the taking of a blood sample.**

The Court of Appeals correctly found the taking of the blood sample need not be recorded. Petitioner contends section 56-5-2950(B) mandates video recording the taking of Petitioner's blood sample for testing. The clear and unambiguous language of the statute does not require recording of the taking of the sample. Further, such a result would be absurd as an unreasonable invasion of privacy not intended by the Legislature. Finally, the Legislature knew how to require video recording, and did so in section 56-5-2953, so if it actually intended to require the recording of blood and urine sample collection, it knew how to write legislation explicitly setting forth the requirement.

In interpreting statutes, the Court looks to the plain meaning of the statute and the intent of the legislature. State v. Gaines, 380 S.C. 23, 32, 667 S.E.2d 728, 733 (2008). A statute's language must be construed in light of the intended purpose of the statute. Id. at 33, 667 S.E.2d at 733. Whenever possible, legislative intent should be found in the plain language of the statute itself. Id. "Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." State v. Pittman, 373 S.C. 527, 561, 647 S.E.2d 144, 161 (2007). However, the statute must also be read as a whole and in harmony with its purpose. State v. Sweat, 386 S.C. 339, 350, 688 S.E.2d 569, 575 (2010). Accordingly, "[a] statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers." Browning v. Hartvigsen, 307 S.C. 122, 125, 414 S.E.2d 115, 117 (1992).

The relevant section provides in part: “(B) No tests may be administered or samples obtained unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed” of their implied consent rights. S.C. Code Ann. § 56-5-2950(B). The section then lays out the particular rights which must be explained verbally and given in a written copy. The clear and unambiguous language used by the Legislature does not require video recording of the samples being taken, it requires the informed consent be provided after activation of video recording equipment and prior to testing. If it requires anything to be recorded, it requires only the reading and presentment of the informed consent rights to be recorded. However, when read in connection with other statutes, most notably section 56-5-2953 which does require activation of video equipment and recording at certain locations including the breath test site, it is clear the timing requirement of section 56-5-2950(B) was written to be in conjunction with the typical recording provided at the breath test site. Therefore, under the clear and unambiguous language of the statute it did not require recording of the taking of the samples, it set forth the requirement of when the implied consent rights had to be provided.

Additionally, requiring the video recording of the taking of test samples would lead to an absurd result clearly unintended by the Legislature. The various testing allowed under section 56-5-2950 would all be impacted by the recording requirement articulated by Petitioner. As a result, the taking of a blood sample no matter the condition of the individual or the taking of a urine sample would have to be video recorded.

There is no doubt that urination is an inherently private act and that the requirement to record the collection of the sample would be a significant intrusion on the privacy of the individual. As the United States Supreme Court has acknowledged:

“There are few activities in our society more personal or private than the passing of urine. Most people describe it by euphemisms if they talk about it at all. It is a function traditionally performed without public observation; indeed, its performance in public is generally prohibited by law as well as social custom.”

Skinner v. Ry. Lab. Executives’ Ass’n, 489 U.S. 602, 617 (1989) (quoting National Treasury Employees Union v. Von Raab, 816 F.2d 170, 175 (5<sup>th</sup> Cir. 1987)). Certainly, our Legislature did not mean to require the video recording of every urine sample collected. See Unisun Ins. Co. v. Schmidt, 339 S.C. 362, 368, 529 S.E.2d 280, 283 (2000) (finding courts will reject an interpretation of a statute leading to an absurd result clearly unintended by the legislature); State v. Elwell, 396 S.C. 330, 336, 721 S.E.2d 451, 454 (Ct. App. 2011) (“The statute must be interpreted with realistic circumstances and rationales in mind.”). As a result, any reading of section 56-5-2950(B) should not impose the unnecessary and invasive requirement of video recording the actual sample being taken.

Finally, section 56-5-2950 and any video recording requirement should be read in conjunction with section 56-5-2953 which sets forth the only specific video recording requirements. Section 56-5-2953(A) sets forth specific tests and requirements for the video recording and exceptions which would be applicable here.<sup>2</sup> Had the Legislature intended to have

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<sup>2</sup> However, even if we assume for the sake of argument that the Legislature did intend for such tests to be recorded, they also included specific exceptions to that requirement in S.C. Code § 56-5-2953(B). Here, EMS personnel informed Minnix that Appellant required emergency medical treatment at Clarendon Memorial Hospital. (R. 95, 219). Therefore, the State was not required to video tape Appellant’s conduct at the incident site or elsewhere pursuant to S.C. Code § 56-5-2953(B). The State produced a sworn affidavit as required by § 56-5-2953(B) and submitted it to the trial judge. (R. 709).

specific video recording requirements for blood and urine sample collection, certainly they would have set it out similarly to section 56-5-2953. See, e.g., S.C. Coastal Conservation League v. S.C. Dep't of Health & Env't Control, 390 S.C. 418, 426, 702 S.E.2d 246, 251 (2010) (Acknowledging: “Had the legislature intended for the time period to begin running from the date a party receives notice of the decision, the statute would have been drafted accordingly.” Further, the Court looked to other statutes and explained: “The use of the phrase ‘receipt of the decision’ in [a separate statute] indicates that had the legislature intended for the fifteen day time period to begin after receipt of notice, the legislature knew how to draft the statute to accomplish this result.”); Hainer v. Am. Med. Int'l, Inc., 328 S.C. 128, 134, 492 S.E.2d 103, 106 (1997) (explaining that if the “Legislature had intended [a] certain result in [a] statute, it would have said so” (citing Estate of Guide v. Spooner, 318 S.C. 335, 457 S.E.2d 623 (Ct. App. 1995))).

Accordingly, the trial court and Court of Appeals both properly concluded section 56-5-2950(B) did not establish a requirement to video record the taking of the blood sample in this case. As a result, this Court should deny the Petition for Writ of Certiorari as to this Question.

## CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that this Court should deny the Petition for Writ of Certiorari to the Court of Appeals.

Respectfully submitted,

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September 2, 2022