



The South Carolina Court of Appeals

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April 03, 2023

The Honorable David Hamilton
PO Box 649
York SC 29745-0649

REMITTITUR

Re: The State v. Daniel M. Belk
Lower Court Case No. 2020CP4600996
Appellate Case No. 2020-001105

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in blue ink, appearing to read "V. Claire Allen".

CLERK

Enclosure

cc: Heath Preston Taylor, Esquire
Michael Langford Brown, Jr., Esquire
Alan McCrory Wilson, Esquire

William M. Blich, Jr., Esquire
Kevin Scott Brackett, Esquire
The Honorable Daniel Dewitt Hall

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Daniel McMichael Belk, Appellant.

Appellate Case No. 2020-001105

Appeal From York County
Daniel Dewitt Hall, Circuit Court Judge

Unpublished Opinion No. 2023-UP-089
Submitted January 1, 2023 – Filed March 15, 2023

AFFIRMED

Michael Langford Brown, Jr., of MLB Law, of Rock Hill, for Appellant.

Attorney General Alan McCrory Wilson and Senior Assistant Deputy Attorney General William M. Blich, Jr., both of Columbia; and Solicitor Kevin Scott Brackett, of York, all for Respondent.

PER CURIAM: Daniel McMichael Belk appeals his conviction of driving under the influence (DUI), first offense. On appeal, Belk argues the circuit court erred in affirming the magistrate's denial of his motion to dismiss because the arresting

officer failed to properly advise him of his *Miranda*¹ rights as required under section 56-5-2953 of the South Carolina Code (2018). We affirm.

Because the proper remedy under section 56-5-2953 for a *Miranda* violation was the suppression of Belk's statements and not a per se dismissal of his DUI charge, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Henderson*, 347 S.C. 455, 457, 556 S.E.2d 691, 692 (Ct. App. 2001) ("In reviewing criminal cases, this court may review errors of law only."); § 56-5-2953(A)(1)(a)(iii) (stating that a video recording of an individual charged under S.C. Code Ann. § 56-5-2930 (2018) must be made showing the arrest and the person being advised of his *Miranda* rights); *State v. Taylor*, 436 S.C. 28, 38, 870 S.E.2d 168, 173 (2022) ("[W]hen the statutory *Miranda* requirement is not satisfied, suppression of 'tainted' evidence—not per se dismissal of the DUI charge—is the proper remedy."); *id.* ("*Miranda* is a constitutional construct that mandates suppression of evidence in certain circumstances, not per se dismissal of the underlying charge.").

AFFIRMED.²

WILLIAMS, C.J., THOMAS, J., and LOCKEMY, A.J., concur.

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966).

² We decide this case without oral argument pursuant to Rule 215, SCACR.