

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
)
)
)
State of South Carolina)
)
-VS-)
)
Scott Eugene Williams,)
Defendant)
)
.....)

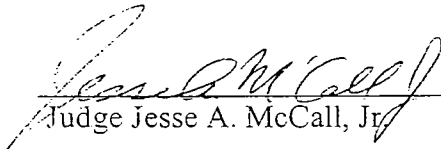
IN THE CLEVELAND TOWNSHIP
MAGISTRATE COURT

TICKET NO.(s) F062451

ORDER

On April 10, 2013 a hearing was held on the State's motion for reconsideration and a new trial in the above captioned case. After due consideration of the arguments made by both counsel for the State and for the Defendant, and notwithstanding the holding of the case of State vs. Ramsey, 381 S.C.375, 673 S.E.2d 428 (2009). This court finds that the fundamental flaws in the State's case can not be corrected upon retrial. Therefore, on grounds of judicial economy, the State's motion is respectfully denied.

AND IT IS SO ORDERED this 17th day of April 2013.



Judge Jesse A. McCall, Jr.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
FILED-CLERK OF COURT
GREENVILLE CO. S.C. CASE NUMBER 2013CP2302731
PAUL B WICKENSIMER

South Carolina State Of

Scott Eugene Williams

2013 AUG 15 P 3: 10

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order: (formal order to follow) Statement of Judgment by the Court:

RECEIVED

OCT 28 2013

SC Court of Appeals

ORDER INFORMATION

Before the Court is the State of South Carolina's Appeal from the magistrate court's dismissal of the case of *South Carolina v. Scott Eugene Williams*. Appearing for the State was Assistant Solicitor Mitchell Byrd; appearing for the Defendant was G. David Seay. The Court has carefully reviewed the erudite arguments of counsel, the briefs of the parties, the transcript from the trial and proceedings before the magistrate, the magistrate's return and orders, and the relevant statutes and case law.

"In a criminal appeal from the magistrate's court, the circuit court does not review the matter de novo; rather, the court reviews the case for preserved errors raised by appropriate exception. *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 341, 713 S.E.2d 278, 282 (2011). The circuit court 'may either confirm the sentence appealed from, reverse or modify it, or grant a new trial.' S.C. Code Ann. § 18-3-70." *State v. Hoyle*, 397 S.C. 622, 625, 725 S.E.2d 720, 721-22 (Ct. App. 2012).

The Defendant was charged with DUI. The magistrate dismissed the State's case against the Defendant, finding the State failed to provide evidence to support the constitutionality of the checkpoint and failed to articulate probable cause for the stop. The Appellant, State of South Carolina, has raised two issues before this Court: (i) whether the State had a pre-trial burden to prove the constitutionality of its checkpoint, and (2) whether the State had a pre-trial burden to show probable cause for the Defendant's arrest.

Regarding the validity of the checkpoint, the magistrate reviewed the testimony and evidence presented by the State and concluded the State had not established a proper foundation. *See* Magistrate's Return, p. 2 ("The court found insufficient foundation for the data which, even if the State had called other witnesses, the documents would not have established a proper foundation for the location of the checkpoint."). This Court finds no error.

The State also contends the magistrate improperly used the probable cause standard rather than reasonable suspicion regarding the Defendant's stop and arrest. The State's argument, however, fails because even if reasonable suspicion applies, the State cannot meet its burden since the reasonable suspicion is premised in the validity of the checkpoint, which the magistrate correctly determined was without proper foundation. The State was unable to prove the u-turn by the Defendant was illegal, but instead only that it appeared to be an evasive maneuver as a result of the checkpoint. The Defendant contends the State failed to preserve this issue, which argument has merit. However, assuming the issue is preserved, this Court nevertheless finds no error. This Court further notes that when ruling on the State's motion for reconsideration, the magistrate judge properly considered *State v. Ramsey*, 381 S.C. 375, 673 S.E.2d 428 (2009). *See* Magistrate's Order, April 17, 2013. Having fully reviewed the record and carefully considered the arguments of counsel, the Court denies the State's Appeal.

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

[Handwritten Signature]

Circuit Court Judge

2137

Judge Code

8/9/13

Date

For Clerk of Court Office Use Only

This judgment was entered on ⁸⁻¹⁵⁻¹³, and a copy mailed first class or placed in the appropriate attorney's box on ⁸⁻¹⁵⁻¹³, to attorneys of record or to parties (when appearing pro se) as follows:

Stanford Lee Overby Jr. 305 E. North Street, Suite 325
Greenville, SC 29601

G. David Seay Jr. PO Box 8699 Greenville, SC 29604

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B Wickensimer

Court Reporter

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKERHOFER

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP2302731

South Carolina State Of

2013 SEP 25 P 4:03

Scott Eugene Williams

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order: (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

Before the Court is the State of South Carolina's Motion to Reconsider. This Court entered its Order on August 9, 2013, denying the State's Appeal of a magistrate's order of dismissal. The Court has reviewed the Appellant's Motion, the previous order, and the relevant rules of procedure. Accordingly, the Appellant's Motion to Reconsider is respectfully DENIED.

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

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may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

C. E. Wehler

Circuit Court Judge 2137 9/24/2013
Judge Code Date

For Clerk of Court Office Use Only

This judgment was entered on 9/25/13 and a copy mailed first class or placed in the appropriate attorney's box on 9/25/13, to attorneys of record or to parties (when appearing pro se) as follows:

Stanford Lee Overby Jr. 305 E. North Street, Suite 325
Greenville, SC 29601
Mitchell K. Byrd Sr. 216 Pimlico Road Greenville, SC
29607

G. David Seay Jr. PO Box 8699 Greenville, SC 29604

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

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