

**BRIEF OF APPELLANT**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

G. Thomas Cooper, Circuit Court Judge

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Appellate Case No. 2013-001072

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The City of Columbia,

Respondent,

v.

William K. Wilson,

Appellant.

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FINAL BRIEF OF APPELLANT

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William K. Wilson  
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SC Court of Appeals



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## STATEMENT OF ISSUES ON APPEAL

1. THE TRIAL COURT ERRED IN FAILING TO APPLY THE CORRECT STATUE TO THE CASE AND IN APPLYING THE OFFICER'S EXPLANATION OF THE LAW.
2. THE TRIAL COURT ERRED IN NOT ALLOWING ME TO FULLY PRESENT MY CASE, IN NOT ALLOWING ME THE OPPORTUNITY TO QUESTION THE WITNESS AND IN NOT ALLOWING ME TO PRESENT THE APPLICABLE STATUE.
3. THE TRIAL COURT ERRED IN NOT PROVIDING AN ANSWER TO MY QUESTION ASKING WHY THE OFFICER WHO WAS IN CHARGE WHEN THE CITATION WAS WRITTEN WOULD NOT BE IN COURT FOR QUESTIONING.

## STATEMENT OF THE CASE

On June 22, 2012 I was involved in a collision with Anthony Elijah Logan. Officers Rivers and Robinson responded and I was charged with driving too fast for conditions. The trial was in Municipal Court on September 20, 2012 and I was found guilty. I appealed to Circuit Court. The case was heard on February 8, 2013 and the verdict was upheld.

## FACTS

The collision occurred at the intersection of Hazelwood Drive and Garners Ferry Road in Columbia, South Carolina. On the day of the collision a SCDOT officer arrived first and moved the two vehicles from the restaurant driveway into the parking lot to clear the driveway for the business traffic. A few minutes later two City of Columbia officers arrived. Officer Rivers appeared to be training Officer Robinson and did all the talking. Officer Rivers interviewed the other driver involved in the collision and then instructed Officer Robinson to write a citation against me while he went next door to visit with two other officers who were investigating a suitcase left at a bus stop. The Uniform Traffic Ticket that I received the day of the collision had an offense code of 64. The Traffic Collision Report Form (Form TR-310) that I obtained later from the police department had an offense code of 21. Offense code 64 is a six point violation and offense code 21 is a two point violation. Most of my time during the trial was used trying to clear up the charge discrepancy. I was found guilty because Officer Robinson testified that I changed lanes too early and Judge Hurley used that evidence to find me guilty of changing lanes

before the lanes were marked. That was the only evidence presented by the prosecution. I was not found guilty of the charge of too fast for conditions. On Appeal Judge G. Thomas Cooper Jr. affirmed the lower court's findings based on factual finding and no error of law.

## ARGUMENTS

- I. I WAS CHARGED WITH DRIVING TOO FAST FOR CONDITIONS BUT I WAS FOUND GUILTY OF CHANGING LANES PRIOR TO THE LANES BEING LABELED. THAT IS TWO TOTALLY DIFFERENT OFFENSES. IF I CHANGED LANES THAT MEANS THAT THERE WAS A LANE AVAILABLE AT THE POINT OF THE COLLISION TO CHANGE INTO BUT THE LANE JUST HAD NOT BEEN CLEARLY MARKED AT THE POINT OF THE COLLISION. I ADMIT TO MOVING RIGHT AS THE ROADWAYS EXPANDS AND AS SECTION 56-5-2120 REQUIRES IN PREPERATION FOR A TURN BUT THAT HAS NOTING TO DO WITH SPEED OR DRIVING TOO FAST FOR CONDITIONS.  
THE DAY OF THE COLLISION OFFICER RIVERS AND ROBINSON ARRIVED AT THE SCENE AFTER THE VEHICLES HAD BEEN MOVED INTO THE PARKING LOT. OFFICER RIVERS INTERVIEWED THE OTHER DRIVER AND MADE THE DECISION TO CHARGE ME WITH DRIVING TOO FAST FOR CONDITIONS AND INSTRUCED OFFICER ROBINSON TO WRITE THE CITATION. HE THEN WENT NEXT DOOR TO VISIT WITH TWO OTHER OFFICERS WHO WERE INVESTIGATING A SUITCASE LEFT UNATTENDED AT A BUS STOP. OFFICER RIVERS RETUNED FROM HIS VISIT AS OFFICER ROBINSON WAS PRESENTING ME WITH THE CITATION AND SHE ASKED ME IF I UNDERSTOOD WHY I WAS GETTING THE CITATION. I SAID NO TO OFFICER ROBINSON. OFFICER RIVERS THEN TOLD ME THAT I WAS AUTOMATICALLY WRONG WHEN I HIT ANOTHER VEHICLE IN THE REAR. WHEN I EXPLAINED THAT THE COLISION WAS NOT IN THE REAR AND SAID IF LOOKED AT THE DAMAGE TO THE VEHICLES HE COULD SEE THAT THE COLLISION WAS NOT IN THE REAR. HE THEN SAID THAT I HAD CHANGED LANES TOO SOON.
- II THE HOME ADDRESS LISTED ON THE DRIVERS LICENSE OF THE OTHER DRIVER IS 47.70 MILES FROM THE COLLISION SITE AND THE DRIVER MAY HAVE BEEN UNFAMILIAR WITH THE INTERSECTION. MY ADDRESS IS 2.56 MILES FROM THE SITE AND I USE THE INTERSECTION ONCE OR TWICE A DAY. IT WAS CRITICAL TO MY CASE THAT I BE ALLOWED TO QUESTION THE CITY WITNESS. THE WHITE LINE ON THE SIDE OF THE ROAD MARKING WHERE ONE LANE ENDS APPROXIMATELY 105 FEET

BEFORE THE ENTRANCE TO THE RESTURANT WHERE THE COLLISION OCCURRED. TO COMPLY WITH SECTION 56-5-2150 THE DRIVER WOULD NEED TO KNOW WHERE HE WAS GOING TO TURN AND SHOULD HAVE BEEN GIVING A SIGNAL TO TURN RIGHT WHEN THE WHITE LINE FOR ONE LANE DISAPPEARED AND THE ROAD BEGAN TO WIDEN OR BEFORE. I DID NOT SEE A SIGNAL.

III.

OFFICER ROBINSON'S TESTIMONY ON PAGE ONE LINE NINE AND HER DESCRIPTION OF THE COLLISION ON FROM TR-310 DESCRIBE THE COLLISION AS HAPPENING IN THE SAME LANE. ON PAGE FIVE LINE NINETEEN HER TESTIMONY TESTIFIES THAT I CHANGED LANES AND MOVED TO THE RIGHT BEFORE THE LANES CHANGED INTO THREE LANES. THEREFORE I THINK THAT THE CHARGE AND THE OFFICERS TESTIMONY CONFLICTS. THE OTHER DRIVER MADE A RIGHT TURN INTO MY PATHWAY AFTER I HAD MOVED OVER IN PREPERATION FOR MY TURN AT THE INTERSECTION.

IV.

I DO NOT BELIEVE THAT THE DEPARTMENT OF TRANSPORTATION WOULD GO TO THE EXPENSE OF GRADUALLY WIDENENING THE ROADS IF THE PURPOSE OF THAT EXPENSE WAS NOT FOR VEHICLES TO USE THE GRADUAL WIDNENING AREA. ONCE THE WHITE LINE ON THE SIDE OF THE ROADWAY MARKING ONE LANE DISAPPEARS AND THE ROAD BEGINS TO WIDEN I BELIEVE THAT VEHICLE PREPARING TO TURN MUST BEGIN TO MOVE TO THE RIGHT WITH THE ROAD IN COMPLIANCE WITH SECTION 56-5-2120. BY THE TIME A VEHICLE REACHES THE POINT WHERE THE LANES ARE MARKED THE DRIVER SHOULD HAVE ALREADY PICKED A LANE. IF YOU WAITED UNTIL AFTER THE LANES ARE CLEARLY MARKED TO PICK YOUR LANE IT WOULD BE A DISASTER AND YOU WOULD HAVE MORE COLLISIONS SIMILAR TO WHAT HAPPENED ON THE DAY OF THIS COLLISION.

V.

SECTION 56-5-2120 WHICH GOVERNS RIGHT TURNS DOES NOT REQUIRE VEHICLES TO WAIT UNTIL LANES ARE SPECIFICALLY MAKED BEFORE MOVING LEFT OR RIGHT. THE SECTION DOES REQUIRES THAT BOTH THE TURN AND THE APPROACH SHALL BE MADE AS CLOSE AS PRACTICABLE TO THE EDGE OF THE ROADWAY AS PRACTICABLE.

IF THE OTHER DRIVER HAD PROPERLY PREPARED FOR HIS TURN AND GIVEN A SIGNAL FOR 100 FEET AND MOVED TO THE RIGHT IN PREPERATION FOR THE TURN THERE WOULD NOT HAVE BEEN A COLLISION.

- VI. I THINK THAT THE OFFICERS MADE AN IMPROPER CHARGE AND TOO MANY MISTAKES AND THAT THE COURT ERRED IN FOLLOWING THE OFFICIERS INTERPRETATION OF THE LAW. I WAS CHARGED TOO FAST FOR CONDITION. I WAS PROSECUTED AND CONVICTED OF SHIFTING LANES IMPROPERLY. THE COLLISION REPORTS DESCRIBES THE COLLISION HAPPENING IN ONE LANE. THE TRAFFIC TICKET HAD A SIX POINT VIOLATION CODE AND THE COLLISION REPORT HAD A TWO POINT VIOLATION CODE. THIS MAKES A DEFENSE DIFFICULT.

## RESPONSE TO RESPONDENT'S BRIEF

### ARGUMENTS

#### **I THE OTHER VEHICLE WAS NOT HIT IN THE REAR.**

The respondent states as fact that I stuck the other vehicle in the rear. This leads you to believe it was a rear end collision. This is not true. The officer testified that I "hit him along the back end". The collision occurred while the other vehicle was perpendicular to my vehicle and the impact and damage to his vehicle was the passenger's rear quarter panel. The photos of the damage show damage on the side and the drawings on the officers Collision Report is not a rear end collision

#### **II THE ACCIDENT OCCURRED AFTER THE ROAD WIDENED.**

The respondent states as fact that the officer rebutted my claim that the collision occurred prior to where the lanes widens. The quote he refers to on page 5 lines 19 – 21 says "your honor, it does change into the three lanes to make a right-hand turn, to make a left-hand turn or to go straightaway. He hit prior to the lines changing". The key word here is the lines. The lanes were there but the lines had not been painted to mark the lanes. Section 56-5-2120 does not require the lines to be marked. The road had widened and we were in separate lanes. I was in the far right lane and the other vehicle was in the far left lane before turning. At the time of impact the other vehicle was perpendicular to my vehicle. On the day of the accident the training officer stated that drivers could not use the expanded roadway until the lanes were clearly marked with white lines. The road had expanded but the lines but the white lines had not started. I tried to point out to the court on page 7 lines 5 – 6 that you do not have to wait until the lanes are marked.

### **III RESPONDENT ARGUES THAT I DID NOT RAISE ARGUMENT OF SECTION 56-5-2120 AT TRIAL.**

When I started introducing evidence in my defense Officer Robinson said on page 5 line 19 - 21 that "prior to where the lanes changing". After a couple of questions the Judge finds me guilty on page 6 line 20 because the "accident happened prior to the lanes changing to three lanes". I had not finished presenting my case and had other exhibits which the Judge did not examine including one of the debris piles which showed the other vehicles had made a semi circle to make the right turn and a copy of section 56-5-2120 (required position and method of turning for right turns). I asked if I could submit one more thing which was section 56-5-2120 on page 6 line 24. On page 7 line 2 Officer Robinson asked that the court not consider section 56-5-2120 because "That's still applicable to the lane changing." Page 7 line 7 the Judge says "I've made my ruling. It occurred before the lanes changed to three lanes." We have an officer who was in training on the day of the accident helping the court determine which statute to apply. The officer who was training her did not attend court.

On the day of the accident the officers told me that I was being charged because it happened before the lanes were clearly marked for three lanes. I did not get a chance to point this out or to question the officer about this wording change. This may only be a matter of semantics. The aerial photos clearly show three lanes exist at the point of the collision but the lanes are not marked at that point. Therefore it is wrong to say that the collision occurred before the road changed. The collision did occur before the lanes were marked. The lanes not being is irrelevant in section 56-5-2120.

### **IV. RESPONDENT ARGUES THAT OFFICER ROBINSON REBUTTED MY CLAIMS BY INFORMING THE TRIAL COURT THAT THE ACCIDENT OCCURRED PRIOR TO THE TO AREA WHERE THE LANES WIDEN.**

Officer Robinson is arguing that the collision occurred before the three lanes were marked with white lines. The fact that I was in one lane and the other vehicle was in another lane is evidence that there was more than one lane at the point of collision and photos show that it was three lanes but the white line were a few feet ahead. Both vehicles were either making or in the process of making right turns and section 56-5-2120 governs right turns. When I asked the court to consider section 56-5-2120 Officer Robinson asked the Court not to consider the section on page 7 line 2.

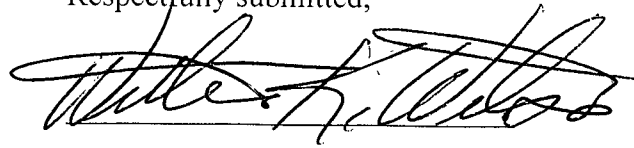
### **V. Charge**

I was charged with too fast for condition but speed was not a factor in the collision, the citation or the verdict. This case is about right turns and should be decided under section 56-5-2120.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the municipal court or dismiss the charge.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William K. Wilson", written over a horizontal line.

November 4, 2013

William K. Wilson  
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Appellant

**CERTIFICATE OF COUNSEL IN FINAL BRIEF**

THE STATE OF SOUTH CAROLINA  
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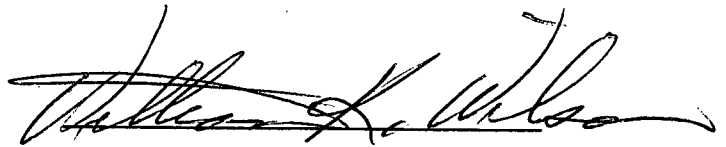
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Appellant.

CERTIFICATE OF COUNSEL

The undersigned certified that this Final Brief complies with Rule 211(b), SCACR.

November 4, 2013



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**PROOF OF SERVICE OF FINAL BRIEF**

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In The Court of Appeals

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**PROOF OF SERVICE**

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I certify that I have served the final brief on the City of Columbia by depositing a copy of it in the United States Mail, postage prepaid, on September 27, 2013 addressed to David A. Fernandez, Office of City Attorney, Post Office Box 667, Columbia, South Carolina 29202.

November 4, 2013



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