

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2012-CP-40-06803

Appellate Case No. 2013-001072

The City of ColumbiaRespondent,

v.

William K. WilsonAppellant.

RETURN TO MOTION

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RESPONDENT'S OPPOSITION TO APPELLANT'S MOTION TO SET ASIDE THE VERDICT AND GRANT A NEW HEARING

On April 16, 2014, Appellant petitioned this court to reconsider its denial of his appeal, outlining three arguments in support of his position.

Appellant's first argument for reconsideration concerns the lack of a *de novo* review of his appeal, therefore limiting this court's scope of review to correcting errors of law. Appellant now specifically argues it was an error of law that was not permitted to present a statute to the trial judge (R. p. 7). As was the case previously, the only legal ground preserved by Appellant in his original *Notice of Intent to Appeal* is the alleged misinterpretation by the trial court of two different state statutes, S.C. Code §§ 56-5-2120 and 56-5-2150. Regardless, Appellant did not properly raise this argument at trial or preserve for review, but merely offered after the trial judge had ruled that he would like to submit "one thing" (R. p. 7). State v. Bailey, 298 S.C. 1, 377 S.E.2d 581 (1989) (An issue not raised at trial is waived on appeal); Talley v. South Carolina Higher Education Grants Committee, 289 S.C. 483, 347 S.E.2d 99 (1986) (An issue may not be raised for the first time on appeal). This argument should not change the review or outcome of this court's original ruling.

Appellant's second argument for reconsideration concerns his failure to properly and timely raise the issues he would now argue on appeal. Again, Appellant did not properly raise this argument at trial or preserve the issue for review. Appellant now argues that the trial judge did not permit him a full and complete defense. However, a review of the trial transcript reveals that Appellant was afforded every opportunity to argue his position, with numerous chances to address the trial court (R. pp. 2-8). Because Appellant did not offer anything when the opportunity presented itself, or request that the

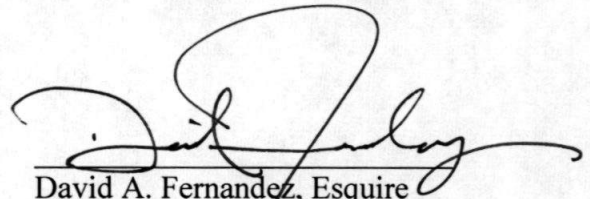
trial judge make a specific ruling, these issues have been waived on appeal and are not a sufficient basis to grant his motion.

Appellant's third and final argument for reconsideration, where he offers a lengthy argument again as to the underlying facts concerning his conviction. The Appellant's fundamental position, as outlined in his petition, was that this case concerns lane changes and not speeding. As was the case at his original trial, the Appellant was charged and convicted only of a violation of Too Fast for Conditions S.C. Code § 56-5-1520 (R. p. 7). Appellant's entire argument revolves around a factual dispute, and ultimately, that he believes he was incorrectly cited. The trial judge was the fact finder, who was presented with one charge for Too Fast for Conditions, and who determined the credibility of the witnesses and weighed the evidence in reaching her decision to convict. Appellant does not provide a legal basis for overturning this conviction or for granting a rehearing on the matter.

CONCLUSION

Therefore, because this court did not overlook any of the issues now raised and argued by Appellant in its original decision, and because the scope of review is limited to correcting errors of law, the Appellant's motion for reconsideration should be denied.

Respectfully submitted,



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April 28, 2014

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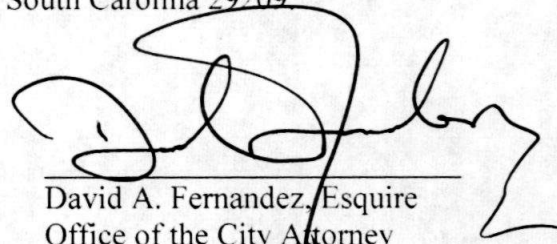
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PROOF OF SERVICE

I certify that I have served the *Return to Motion* on William K. Wilson by depositing a copy of it in the United States Mail, postage prepaid, on April 28, 2014, at his residence at 7106 Sunview Circle, Columbia, South Carolina 29209

April 29, 2014



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