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July 30, 2014

The Honorable Jenny A. Kitchings,
Clerk of Court, South Carolina Court of Appeals
1205 Pendleton Street
Columbia, South Carolina 29201 BY HAND DELIVERY

RE: State v. Walter Douglas Barclay
Appellate Case No.: 2012-212639
SUPPLEMENTAL CITATION

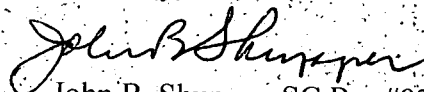
Dear Ms. Kitchings,

Oral argument in the above captioned case was heard June 5, 2014, in Courtroom 1. Pursuant to Rule 208(b)(7), SCACR, I am notifying the Court of the following supplemental citation, which is pertinent to Issues 1 and 2 in the Briefs, with regard to the trial court declining to instruct the jury on driving under the influence, S.C. Code § 56-5-2930, as a lesser-included offense of felony DUI, § 56-5-2945, and the trial court declining to instruct the jury that felony DUI, S.C. Code § 56-5-2945, requires proof that "the person's faculties to drive a motor vehicle [were] materially and appreciably impaired," as provided by § 56-5-2930, the DUI statute, respectively:

(1) *State v. Daisy Lynne Mimms*, Appellate Case No. 2012-212931, Appeal From Orangeburg County, Edgar W. Dickson, Circuit Court Judge, Opinion No. 5252, Heard June 4, 2014 - Filed July 30, 2014 ["In a trial for DUI, the state has to prove: (1) the defendant's ability to drive was materially and appreciably impaired; and (2) this impairment was caused by the use of drugs or alcohol. *State v. Salisbury*, 343 S.C. 520, 524, 541 S.E.2d 247, 248-49 (2001)."], *Mimms* at 45, Shearouse Advance Sheet No. 30, July 30, 2014.

Thank you for your attention to this matter. Please let me know if you have any questions.

Sincerely,


John B. Shupper, SC Bar #9374
Attorney for Appellant

JBS

cc: Ms. Christina J. Catoe, Esquire, Assistant Attorney General
Mr. Walter Douglas Barclay

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SC Court of Appeals

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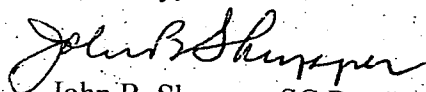
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