



ALAN WILSON
ATTORNEY GENERAL

October 16, 2014

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211


RE: State of South Carolina v. Walter Douglas Barclay
Appellate Case No. 2012-212639

Dear Ms. Kitchings:

Please accept this letter as an informal response to Appellant's Petition for Rehearing, which was served on October 6, 2014. On page 2 of Appellant's Petition, he states that "[t]he state conceded there was evidence petitioner was not at fault, arguing instead that DUI is not a lesser-included offense of felony DUI as a matter of law." For the record, Appellant's assertion is incorrect. In fact, the State argued in its Final Brief of Respondent that there was no evidence supporting Appellant was guilty of anything less than felony DUI **and** that DUI is not a lesser-included offense of felony DUI. (See Final Brief of Respondent, p. 5-11). The State also disagrees with the other arguments made in the Petition for Rehearing and submits that dismissal of the appeal was proper.

Thank you for your attention to this matter, and please do not hesitate to contact me at (803) 734-3713 should there be any questions or concerns.

Sincerely,


Christina Catoe Bigelow
Assistant Attorney General
SC Bar No. 73562

cc: John B. Shupper, Esquire
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RECEIVED

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SC Court of Appeals