



ALAN WILSON  
ATTORNEY GENERAL

October 13, 2014

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**SC Court of Appeals**

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

RE: The State v. Corey Williams  
Appellate Case No: 2014-001886

Dear Ms. Kitchings:

I am writing in response to the request of the Court for written explanation that there is an issue preserved for appellate review during the guilty plea and sentencing proceeding from which this appeal arises. Please be advised that the State filed and served the appeal from the State's objection during the sentencing proceeding to what it contended to the court of general sessions was an improper sentence in contravention of the home detention statute. The State properly objected to the sentence when it was pronounced with specific argument in support of the objection, thereby preserving the issue for review by this Court. I am attaching the sentence sheet and pages 11 – 14 of the transcript as support.

Sincerely,

Salley W. Elliott  
Senior Assistant Deputy Attorney General  
S.C. Bar No: 1871

SWE/ab

cc: James Todd Rutherford, Esquire  
Assistant Attorney General Jennifer Ellis Roberts  
Victim Services

1 the Court. My client and I have discussed the issue of  
2 going to trial. There were several issues present in the  
3 case, most notable of which is the profile that appears to  
4 be a black or Hispanic male traveling in a rental car as my  
5 client was. That seems to be a reason to be stopped in  
6 South Carolina.

7 He was followed to a gas station; they PC'd to  
8 approach him as the Solicitor stated was he had gone in and  
9 out of a gas station restaurant and didn't order food. Not  
10 PC'd for most people but certainly a PC for a black or  
11 Hispanic male in a rental car. They then approached the  
12 car and said that they smelled marijuana. The chemist we  
13 hired yesterday went up and looked at the marijuana. It  
14 was still sealed in the same package, had lost zero  
15 moisture or a half an ounce of moisture between the time  
16 that they weighed it when he was initially stopped and  
17 yesterday.

18 If it was sealed that tightly it is hard to imagine  
19 how anyone could smell raw marijuana coming from a package  
20 in a box that was sealed so tightly it has released no  
21 moisture yet the agent said they could. They then brought  
22 a dog in and were able to search the package based on that.

23 . But, Your Honor, that leads us to our request. The  
24 trafficking statute starts off at ten pounds and goes up to  
25 a hundred. At a hundred pounds certainly someone suggest

1 that that would be at the top of the statute. This is ten  
2 pounds, six ounces at the bottom of the statute. Most  
3 importantly, Your Honor, as I stated with the issues that  
4 relate to the PC for the stop we believe that my client is  
5 - should be entitled to a house arrest sentence that Your  
6 Honor could suspend the ten years on the service of one  
7 year on house arrest. And, Your Honor, would pay for that  
8 house arrest out of his own pocket so at no cost to the  
9 State.

10 The house arrest generally runs - and I discussed this  
11 with my client - about Seventy Dollars a day compared to  
12 the State's incarceration rate which the State's  
13 incarceration cost which last week was Nineteen Thousand  
14 Dollars, Nineteen Thousand, Six Hundred Dollars a person in  
15 general funds. Those include state and federal, Sixteen  
16 Thousand State; about Two Thousand federal per inmate. So  
17 the savings to the State is almost Twenty Thousand Dollars.  
18 Savings to the State is almost Sixteen Thousand Dollars, I  
19 apologize.

20 Your Honor, we believe that that would be - the  
21 sentence would be accomplished using house arrest. Ned  
22 Polk who is from Rock Hill could operate that house arrest  
23 at all cost to the Defendant. We would ask that the  
24 Defendant be made to be placed on house arrest by tomorrow  
25 afternoon at Five o'clock. If not then he would have to

1 turn himself in to the Detention Center to start his one  
2 year sentence in the Department of Corrections.

3 THE COURT: Talk to me about whether or not this type  
4 of offense qualifies for house arrest.

5 MR. RUTHERFORD: Your Honor, we passed the Home  
6 Detention Act some time ago. There was a question of which  
7 I believe has been answered in Greenville and Spartanburg  
8 as to whether it applied to cases like this. As Your Honor  
9 knows Spartanburg has instituted their HIP program;  
10 Richland County has started it, Greenville as well.

11 They do three year trafficking's on the Home  
12 Incarceration Program, Spartanburg, Greenville, and  
13 Richland County and I've done those in all counties.  
14 Further to legislature amended the law last year to allow  
15 someone to get pre-incarceration credit while they're  
16 serving on house arrest or any time served in the  
17 Department of Corrections would be answering any doubt as  
18 to whether you could get credit for home incarceration for  
19 a felon.

20 THE COURT: But you're saying the legislative intent -  
21 and I guess you speak as a legislator - the legislative  
22 intent - intent of that statute was to allow situations  
23 like this to be qualified for house arrest.

24 MR. RUTHERFORD: That's correct, Your Honor.

25 THE COURT: Okay.

1 SOLICITOR SHELTON: Your Honor, may I be heard on  
2 that?

3 THE COURT: Yes, sir, absolutely in regard to this  
4 record.

5 SOLICITOR SHELTON: I'm looking at 24-13-1530 of the  
6 Code of Laws; it specifically says this applies to non-  
7 violent adult and juvenile offenders this option. This is  
8 a violent offense as defined by the General Assembly and  
9 our Code of Laws. It's violent and serious. Considering  
10 that on it's face coupled with the fact that Mr. Williams  
11 has a prior weapon conviction, a felony weapon conviction,  
12 also the fact that most of our recent murders have involved  
13 drugs, and there is a known nexus between drugs and  
14 violence, this is clearly a - something that is not  
15 envisioned by the sentence as far as - by the statute as  
16 far as the Solicitor's office is concerned.

17 I've spoken with Solicitor Brackett about this as well  
18 that you have as well. This is not something our office  
19 consents to. We do not think that the statute quotes  
20 anything that deals with this concept. Any other statutes  
21 I may not be referencing do not apply to violent offenses  
22 as is trafficking marijuana. And all trafficking charges  
23 for that matter.

24 THE COURT: Okay. Thank you.

25 Anything else, Mr. Rutherford?