THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2014-CP-08-0688

The State..Appellant,

v.

Jennifer Lynn Alexander...Respondent.

REPLY BRIEF OF APPELLANT

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TABLE OF CONTENTS

PAGE

TABLE OF AUTHORITIES.. ii

ARGUMENT

I. SECTION 17-13-45 OF THE SOUTH CAROLINA CODE EXTENDS ALL LAW ENFORCEMENT AUTHORITY THAT AN OFFICER POSSESSES IN ONE JURISDICTION TO THE ADJACENT JURISDICTION WHEN THE OFFICER IS RESPONDING TO A DISTRESS CALL OR REQUEST FOR ASSISTANCE. 1

II. RESPONDENT MISTATES THE STANDARD OF REVIEW......... 2

III. RESPONDENT'S ALTERNATIVE ARGUMENT REGARDING THE ALLEGED LACK OF PROBABLE CAUSE TO ARREST APPELLANT MUST BE DISREGARDED, AS IT WAS NEITHER RULED UPON BY THE MAGISTRATE NOR CONSIDERED BY THE CIRCUIT COURT.. 3

CONCLUSION.. 5

TABLE OF AUTHORITIES

CASES PAGE

City of Camden v. Brassell, 326 S.C. 556, 486 S.E.2d 492 (Ct. App. 1997)............... 2

City of Greer v. Humble, 402 S.C. 609, 742 S.E.2d 15 (2013)................................... 3

State v. Byram, 326 S.C. 107, 485 S.E.2d 360 (1997).. 4

State v. Dennis, 402 S.C. 627, 742 S.E.2d 21 (Ct. App. 2013)................................... 4

State v. Gordon, 408 S.C. 536, 759 S.E.2d 755 (Ct. App. 2014)............................ 2, 3

State v. Sweat, 379 S.C. 367 665 S.E.2d 645 (Ct. App. 2008) 1

STATUTES

S.C. Code Ann. § 17-13-45 (2003)..1, 2

ARGUMENT

I. SECTION 17-13-45 OF THE SOUTH CAROLINA CODE EXTENDS ALL LAW ENFORCEMENT AUTHORITY THAT AN OFFICER POSSESSES IN ONE JURISDICTION TO THE ADJACENT JURISDICTION WHEN THE OFFICER IS RESPONDING TO A DISTRESS CALL OR REQUEST FOR ASSISTANCE.

Section 17-13-45 provides:

> When a law enforcement officer responds to a distress call or a request for assistance in an adjacent jurisdiction, the authority, rights, privileges, and immunities, including coverage under the workers' compensation laws, and tort liability coverage obtained pursuant to the provisions of Chapter 78, Title 15, that are applicable to an officer within the jurisdiction in which he is employed are extended to and include the adjacent jurisdiction.

S.C. Code Ann. § 17-13-45 (2003). In her Initial Brief, Respondent contends that the language "including coverage under the workers' compensation laws, and tort liability coverage obtained pursuant to the provisions of Chapter 78, Title 15" places the statute "in an entirely different context" than that asserted by Appellant. (Init. Br. of Respondent at 6) If Respondent is asserting that this language somehow means the statute only gives responding officers corresponding coverage regarding workers' compensation and tort liability, Respondent's argument must fail. The remainder of the statute, which proclaims that such officers have "the authority, rights, privileges, and immunities" as those officers have in the original jurisdiction where they are employed, could not be clearer: the legal authority, rights and responsibilities of every officer responding in an adjacent jurisdiction are identical to those in his home jurisdiction. See State v. Sweat, 379 S.C. 367, 374, 665 S.E.2d 645, 650 (Ct. App. 2008), *affirmed as modified on other grounds by* State v. Sweat, 386 S.C. 339, 688 S.E.2d 569 (2010) ("When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a

court must apply the statute according to its literal meaning."); City of Camden v. Brassell, 326 S.C. 556, 561, 486 S.E.2d 492, 495 (Ct. App. 1997) ("Where the terms of a statute are clear, the court must apply those terms according to their literal meaning.").

Furthermore, to the extent Respondent argues § 17-13-45 is inapplicable because the request for assistance was not made "by another law enforcement agency having jurisdiction" or a "citizen in distress asking to see an officer," her argument is misplaced. (Init. Br. of Respondent at 6) Nothing in the statute indicates that the request must originate from another law enforcement agency or that the person calling must be in actual distress. By its own terms the statute applies when a law enforcement officer is responding "to a distress call or a request for assistance in an adjacent jurisdiction . . . ." S.C. Code Ann. § 17-13-45 (2003) (emphasis added). It is undisputed that City of Goose Creek Officer Hadden was dispatched to investigate following a 911 call from a passerby reporting a possibly wrecked vehicle and that the front yard of the residence where Respondent's vehicle came to rest was in the adjacent jurisdiction of Berkeley County. On its face, the 911 call for service can either be considered a distress call or request for service or both, and the statute, therefore, applies.

II. RESPONDENT MISTATES THE STANDARD OF REVIEW

Near the conclusion of the Initial Brief, Respondent claims an "any evidence" standard of review for this Court. (Init. Br. of Respondent at 7) Appellant, however, respectfully submits that Respondent's proposed standard applies to factual findings made by the trial court, not legal conclusions. Instead, Appellant believes the proper standard of review here is that the Court of Appeals examines the circuit court's ruling for errors of law only. See State v. Gordon, 408 S.C. 536, 759 S.E.2d 755 (Ct. App.

2014); City of Greer v. Humble, 402 S.C. 609, 742 S.E.2d 15 (2013). This case centers on a question of statutory interpretation. As this Court has said, questions of statutory interpretation are questions of law subject to *de novo* review; the Court, therefore, is "free to decide without any deference to the court below." Gordon, 408 S.C. at 540, 759 S.E.2d at 757; Humble, 402 S.C. at 613, 742 S.E.2d at 17.

III. RESPONDENT'S ALTERNATIVE ARGUMENT REGARDING THE ALLEGED LACK OF PROBABLE CAUSE TO ARREST APPELLANT MUST BE DISREGARDED, AS IT WAS NEITHER RULED UPON BY THE MAGISTRATE NOR CONSIDERED BY THE CIRCUIT COURT.

The State's appeal to this Court is based upon the magistrate's error of law in dismissing the case because the initial detention of Respondent was lawful. In so doing, the State relies upon Section 17-13-45 of the South Carolina Code and the expanded jurisdiction of a law enforcement officer responding to a distress call or request for assistance in an adjacent locale. In her Initial Brief, however, Respondent makes the following statement: "Even if the Court finds that S.C. Code [Ann.] section 17-13-45 may be applicable to the case . . . the matter still turns on whether the police had probable cause to detain the Respondent in the first place." (Init. Br. of Respondent at 6) The State strongly disagrees that this issue is before the Court, as the magistrate did not rule upon this ground and the circuit court concurred.

While Respondent is correct that several motions were heard in the magistrates court, including one pursuant to State v. Martin, 275 S.C. 141, 268 S.E.2d 105 (1980), the sole basis of the magistrate's ruling was the lack of police authority to detain or arrest Respondent because the yard where her car came to rest was outside the City of Goose Creek. In both his Order of Dismissal and the Return, the magistrate stated that the lower court was "most persuaded by our Supreme Court's holding in State v. McAteer." (Order

of Dismissal p. 3; Return p. 5) Each document then continues: "Here, as in McAteer, [] since the initial Goose Creek officer was outside the municipality's city limits when he first observed the Defendant, and since no violation of the law had been observed within the city limits, **the officer had no police authority** to detain the Defendant, or to arrest her." (Order of Dismissal p. 3; Return p. 5) (emphasis added) Nothing in the Order of Dismissal addresses any issue raised pursuant to Martin, and the only reference to Martin in the Return is that "there were no 'special circumstances' that created a 'clear and present danger to the community' because the Defendant's vehicle was stuck in the mud in a ditch and was inoperable." (Return pp. 5-6) As can be seen, there is absolutely no mention of the words "probable cause" in either the Order of Dismissal or Return, so it is improper for Respondent to attempt to argue an alleged lack of probable cause as a legal basis for dismissal of the case. See State v. Byram, 326 S.C. 107, 485 S.E.2d 360 (1997) (finding an issue not preserved for appellate review where the trial court did not rule on it); State v. Dennis, 402 S.C. 627, 742 S.E.2d 21 (Ct. App. 2013) (same).

This concern was also addressed at oral argument before the circuit court, where Appellant asserted the sole ground of the magistrate's decision was lack of law enforcement jurisdiction. (Tr. p. 8, lines 1-10) The circuit court agreed, stating that the "judge ruled that they didn't have jurisdiction, and therefore the case is dismissed." (Tr. p. 9, lines 1-2) Later the circuit court rejected any other alleged grounds for dismissal by reiterating that Respondent could not address any other reasons "because [the magistrate] said you don't have jurisdiction." (Tr. p. 11, lines 11-12) Accordingly, because the sole ground relied upon by the magistrate to dismiss the case was that the officer had no police jurisdiction, any argument based upon other purported grounds must be ignored.

CONCLUSION

Because § 17-13-45, by its own terms, clearly authorizes an officer responding in an adjacent jurisdiction to exercise all the powers he possess in his own jurisdiction, and is not limited in any way to circumstances involving workers' compensation or tort liability. In addition, as the 911 call herein was both a distress call and a request for assistance, § 17-13-45 applies. Furthermore, for the reasons explained above, the Court should review this appeal *de novo*, as it involves purely a question of statutory interpretation. Finally, as Respondent's additional argument regarding lack of probable cause was neither ruled upon by the magistrate nor addressed by the circuit court, that portion of Respondent's Brief should be disregarded by the Court.

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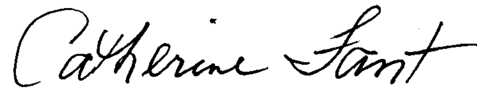
PROOF OF SERVICE

I hereby certify that I have served the Reply Brief of Appellant on Respondent Jennifer Lynn Alexander, addressed to her attorneys of record, Norbert E. Cummings, Jr., and Henry R. Schlein, at Post Office Box 1318, Summerville, South Carolina, 29483, via United States Mail, postage prepaid, on this 9th day of February, 2015.



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Dated: February 9, 2015
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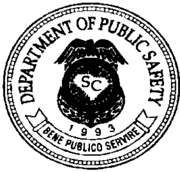

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RE: State v. Jennifer Lynn Alexander
Appellate Case No. 2014-001919

Dear Ms. Kitchings:

Please find enclosed Appellant's Reply Brief and accompanying Proof of Service for filing in the above-referenced matter. In addition, please clock in the copies enclosed for return in the envelope provided.

Sincerely,

Catherine Fant

Catherine Fant
Assistant General Counsel

/cbf
Enclosures

cc: Norbert E. Cummings, Jr.
Henry R. Schlein

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