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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

October 28, 2015

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

RE: State v. Johnnie Allen Devore, Jr.
Appellate Case No. 2013-000883

Dear Ms. Kitchings:

Pursuant to Rule 208(b)(7), SCACR, I am notifying the Court of the following supplemental citations:

State v. Gordon, Op. No. 27554 (S.C. Sup. Ct. filed August 5, 2015) (Shearouse Adv. Sh. No. 30 at 10) (rehearing denied October 22, 2015) ("Even if we assume the video of the field sobriety test is of such poor quality that its admission is more prejudicial than probative, the remedy would not be to dismiss the DUI charge. Instead, the remedy would be to redact the field sobriety test from the video and exclude testimony about the test.").

State v. Henkel, 431 S.C. 9, 774 S.E.2d 458 (2015) (holding dismissal of a DUI charge was not proper despite the lack of strict compliance with the requirements of Section 56-5-2953 because, even though the first Miranda warning was not captured by audio or video, the videotape sufficiently captured the interactions between the officer and Henkel once videotaping became practicable).

One of the issues on appeal in the present case is the claim that the trial court erred in failing to dismiss Appellant's DUI charge because the roadside video fails to adequately show Appellant being advised of his Miranda rights pursuant to Section 56-5-2953. (Final Brief of Appellant p.2-p.4; Final Brief of Respondent p.9-p.20). Thank you for your attention to this matter. Please do not hesitate to contact me at (803) 734-3747 should there be any questions or concerns.

Sincerely,

J. Benjamin Aplin
Assistant Attorney General

cc: J. Falkner Wilkes, Esquire