

STATE OF SOUTH CAROLINA)
 COUNTY OF DORCHESTER)
)
 STATE OF SOUTH CAROLINA,)
)
 -versus-)
)
 BREANNA FLANNERY,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIRST JUDICIAL CIRCUIT
 CASE NO.: 2015-CP-18-1916

ORDER

RECEIVED

SEP 21 2016

SC Court of Appeals

2016 AUG -5 AM 9:22
 CLERK OF COURT
 DORCHESTER COUNTY

**TO: ASSISTANT SOLICITOR, KYLE WARD
 DEFENSE COUNSEL, TIM AMEY**

This Appeal came before the Court on April 19, 2016. Based upon review and consideration of the file in this case, the Magistrate’s Return, and oral arguments of counsel, the Court’s rulings on each of the grounds set forth in Appellant’s Appeal are as follows:

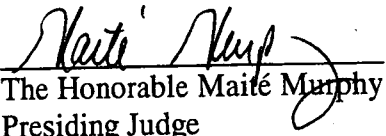
1. As no motion or objection regarding jury selection or trial length was made at the time of trial, this issue was not preserved for appeal.
2. This Court finds that Deputy Tuck’s presence in the courtroom during Deputy Hayes’ testimony was proper, as Deputy Tuck was the prosecuting officer; therefore, the Trial Court’s ruling on this matter is affirmed.
3. This Court finds that the Trial Court did not err in finding that Deputy Hayes had probable cause to conduct the traffic stop based upon the evidence presented.
4. This Court finds that the Trial Court’s curative jury instruction regarding testimony that the deputy was “flagged down” and denial of Defendant’s Motion for Mistrial were proper.
5. As defense counsel made no objection or motion regarding muting certain portions of the video at trial, this issue is not preserved for appeal.
6. Based upon Deputy Hayes’ testimony regarding the video, this Court finds that there was no abuse of discretion by the Trial Court in admitting the video as evidence.
7. It is not improper for the arresting officer to both prosecute the case and testify as a witness in Magistrate’s Court. State v. Messervy, 258 S.C. 110, 187 S.E.2d 524 (1972). As Deputy Tuck was both the prosecuting officer and the arresting officer, it was proper for him to testify as such.

8. This Court finds that the Trial Court properly ruled that the issues surrounding the breath test went to the weight of the evidence, not the admissibility.

9. This Court finds, and the State agreed on the record at the hearing, that the Trial Court erred in denying defense counsel's Motion for Directed Verdict as to the charge of unlawful use of license, S.C. Code Ann. § 56-1-510, as no evidence was presented to show that Appellant used the license illegally.

10. Based upon the reasons set forth above, this Court finds that Appellant received a fair and impartial trial.

IT IS SO ORDERED!


The Honorable Maité Murphy
Presiding Judge
First Judicial Circuit

August 3, 2016
St. George, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP1801916

South Carolina State Of

2016 AUG -5 AM 9:22

Deanna Flannery

PLAINTIFF(S)

DEFENDANT(S)

2016 AUG -5 AM 9:22

Attorney for: Plaintiff Defendant

Submitted by:

Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):
 - Rule 12(b), SCRPC;
 - Rule 41(a), SCRPC (Vol. Nonsuit);
 - Rule 43(k), SCRPC (Settled);
 - Other: _____
- ACTION STRICKEN (CHECK REASON):
 - Rule 40(j) SCRPC;
 - Bankruptcy;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 - Affirmed;
 - Reversed;
 - Remanded;
 - Other: _____

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SEP 21 2016

SC Court of Appeals

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Maite' Murphy

2166

8/5/2016

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on **8/5/2016**, and a copy mailed first class or placed in the appropriate attorney's box on **8/5/2016**, to attorneys of record or to parties (when appearing pro se) as follows:

Kyle Leo Ward 140 N. Main Street Suite 102 Summerville,
SC 29483

Tim Amey 1495 Remount Rd North Charleston, SC 29406

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Cheryl Graham

Court Reporter

Cheryl Graham - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

cc: Summerville Mag. Ct. via email 8/5/16
