

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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CERTIORARI TO THE COURT OF APPEALS  
Appeal from Berkeley County  
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

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**RECEIVED**

**OCT 20 2016**

**S.C. SUPREME COURT**

The State.....Petitioner,

v.

Jennifer Lynn Alexander.....Respondent.

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Appellate Case No. 2014-001919  
Unpublished Opinion No. 2016-UP-377  
Heard March 9, 2016 – Filed July 27, 2016; rehearing denied September 20, 2016

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**PETITION FOR WRIT OF CERTIORARI**

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**CERTIFICATE OF COUNSEL PURSUANT TO SCACR RULE 242(d)(1).**

Counsel for Petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on September 20, 2016.

**QUESTION PRESENTED ON CERTIORARI**

**Did the Court of Appeals' holding that Respondent's initial detention was unlawful conflict with the prior decisions of this Court, specifically State v. McAteer, 340 S.C. 644, 532 S.E.2d 865 (2000) and State v. Boswell, 391 S.C. 592, 707 S.E.2d 265 (2011)?**

**STATEMENT OF THE CASE**

On July 29, 2013, the Goose Creek Police Department dispatched Officer Chad Hadden in response to a 911 call from a concerned citizen describing an unoccupied vehicle that appeared to be in a ditch with its inside and outside lights on and the doors open. (R. p. 68) Officer Hadden responded to the scene and found Respondent there in an intoxicated condition. Id. Believing Respondent to have operated the wrecked vehicle while intoxicated, Officer Hadden contacted dispatch to confirm his location and was advised that he was in Berkeley County. Id. Based upon a mistaken belief that he lacked jurisdiction to arrest in Berkeley County, Officer Hadden requested the Highway Patrol to handle the arrest and detained Respondent while awaiting the arrival of the Highway Patrol. Id. Respondent was ultimately cited by a Highway Patrol officer for Driving Under the Influence in violation of S.C. Code § 56-5-2930.

On February 11, 2014, the parties argued pre-trial motions advanced by Respondent. (R. pp. 5, 52-53) The magistrate subsequently issued an order dismissing the case, finding Officer Hadden had detained Respondent without authority to do so because he was outside the

municipality's city limits when he detained her and the ensuing arrest was thus unlawful. (R. pp. 6, 56)

Petitioner filed a timely notice of appeal and appealed to the circuit court. (R. pp. 36-41) On July 28, 2014, the matter was heard before the Honorable R. Markley Dennis, Jr., who subsequently issued a Form 4 Order affirming the magistrate's decision on August 26, 2014. (R. pp. 2-3, 16-32) Notice of Appeal was timely filed with the Court of Appeals on September 11, 2014. (R. pp. 8-15) In the briefing before the Court of Appeals, Petitioner argued that the circuit court erred in failing to reverse the magistrate court order because Respondent's initial detention was lawful pursuant to S.C. Code § 17-13-45. The Court of Appeals affirmed the decision in an unpublished opinion dated July 27, 2016. The State petitioned the Court of Appeals for rehearing, and the petition was denied on September 20, 2016.

#### ARGUMENT

**Did the Court of Appeals' holding that Respondent's initial detention was unlawful conflict with the prior decisions of this Court, specifically State v. McAteer, 340 S.C. 644, 532 S.E.2d 865 (2000) and State v. Boswell, 391 S.C. 592, 707 S.E.2d 265 (2011)?**

The State's appeal is based on the fact that the magistrate judge erred as a matter of law in dismissing this case because the initial detention of Respondent was lawful. At the pre-trial hearing, Respondent argued the case should be dismissed pursuant to State v. McAteer, 340 S.C. 644, 532 S.E.2d 865 (2000), because the location where Respondent was detained was outside Officer Hadden's jurisdictional limits. The magistrate agreed, citing McAteer and State v. Boswell, 391 S.C. 592, 707 S.E.2d 265 (2011), and found that because Officer Hadden was not within his jurisdiction, he had no police authority to detain Respondent. (R. p. 6) The Court of Appeals adopted that reasoning in citing both McAteer and Boswell in affirming the dismissal.

Although both cases address the issue of police authority to arrest outside of their territorial jurisdiction, neither applies to the case at bar. In McAteer, the issue of jurisdiction was conceded, as all parties agreed the incident occurred outside the police officer's municipal jurisdiction and the question became one of the authority to make a citizen's arrest. Similarly, Boswell is unavailing because the dispute in that case concerned the validity of a multi-jurisdictional agreement between law enforcement agencies. Neither case, however, addresses the issue herein regarding § 17-13-45's extension of law enforcement powers into adjacent jurisdictions. The Court of Appeals therefore erred by applying this Court's holdings in McAteer and Boswell to an unrelated set of factual circumstances.

Section 17-13-45 expands the jurisdiction of a law enforcement officer responding to a distress call or request for assistance in an adjacent jurisdiction. This section reads, in pertinent part: "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 . . . 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 § 17-13-45. As the statute is facially unambiguous, the only question to be decided is whether it applies to the facts of this case.<sup>1</sup> See generally 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

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<sup>1</sup> While no case has interpreted or applied § 17-13-45, multiple opinions from the Attorney General's Office have concluded it operates to expand the territorial jurisdiction of law enforcement into adjacent areas. See, e.g., 2009 WL 580559 at \*4 (S.C.A.G. Op. filed February 26, 2009) (stating § 17-13-45 "provides for the response of a law enforcement officer to a distress call or request for assistance in an adjacent jurisdiction" and "serves as a basis for expanded territorial jurisdiction of a law enforcement officer"); 2004 WL 323937 at \*2 (S.C.A.G. Op. filed February 04, 2004) (finding that because a law enforcement officer is authorized to respond in an adjacent jurisdiction under § 17-13-45, and "adjacent" is defined as "lying near or close to . . . neighboring," a Barnwell city police officer "would be authorized to go into [Barnwell] county" to answer a call pursuant to the statute); 1998 WL 61839 at \*2 (S.C.A.G. Op. filed February 17, 1998) (declaring that under § 17-13-45, "police jurisdiction extends outside corporate limits . . . to include an adjacent jurisdiction when the officer responds to a distress call or call for assistance").

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.").

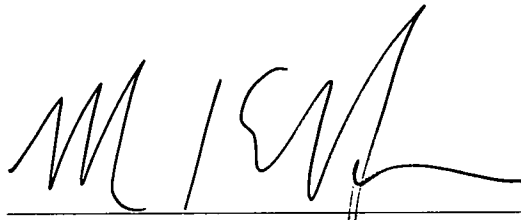
Officer Hadden's authority to detain the Respondent would have been questionable in the absence of § 17-13-45. However, this Court has repeatedly identified statutes such as § 17-13-45 as properly expanding the territorial jurisdiction of a municipal officer. The Court of Appeals noted that Boswell identified "two grounds under which police officers have authority to effectuate extraterritorial arrests: specific statutory authorization or valid multi-jurisdictional agreements." Boswell, 391 S.C. at 600, 707 S.E.2d at 269 (emphasis added) However, the Court of Appeals ignored the effect of § 17-13-45, which provides the exact statutory authority required by this Court's jurisprudence. See also State v. Harris, 299 S.C. 157, 159, 382 S.E.2d 925, 926 (1989) ("The jurisdiction of a municipal police officer, absent statutory authority, generally does not extend beyond the territorial limits of the municipality.") (emphasis added)

The factual circumstances of Respondent's detention are undisputed. Officer Hadden was dispatched to investigate a 911 call from a passerby who reported that a vehicle may have been involved in a wreck. He responded to the scene of the reported vehicle in the adjacent jurisdiction of Berkeley County. Because Officer Hadden was responding to a 911 distress call or request for assistance in Berkeley County, a jurisdiction adjacent to the City of Goose Creek, § 17-13-45 operated to enlarge his territorial jurisdiction such that his detention of Respondent was a lawful exercise of the "authority, rights, privileges and immunities" vested in him as a member of the City of Goose Creek Police Department. The Court of Appeals, therefore, erred

as a matter of law in finding the Goose Creek officer lacked the authority to detain Respondent until the arresting officer arrived.

**CONCLUSION**

For the reasons set forth above, it is respectfully requested that this Court grant the petition for a writ of certiorari and issue an order reversing the decision of the Court of Appeals.



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October 17, 2016

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PROOF OF SERVICE

I hereby certify that I have served a copy of the Petition for Writ of Certiorari and Appendix on the Respondent, addressed to her attorneys of record, Norbert E. Cummings, Jr., Esq. and Henry Schlein, Esq. at Post Office Box 1318, Summerville, South Carolina, 29484-1318, via United States Mail, postage prepaid, on this 18<sup>th</sup> day of October, 2016.



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