

ORIGINAL



Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

April 4, 2017

Honorable Daniel E. Shearouse
Clerk, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RECEIVED

APR 04 2017

S.C. SUPREME COURT

Re: The State v. Jonathan X. Miller (Appellate Case No. 2016-000862)

Dear Mr. Shearouse:

With respect to the legality of the warrantless automobile search that occurred on private property (not public property) prior to towing in the above titled case, I am submitting the cases listed below as supplemental authorities under Rule 208(b)(7), SCACR, in support of appellant's Fourth Amendment violation claim and the privacy right violation found under Article 1, section 10 of the South Carolina State Constitution.

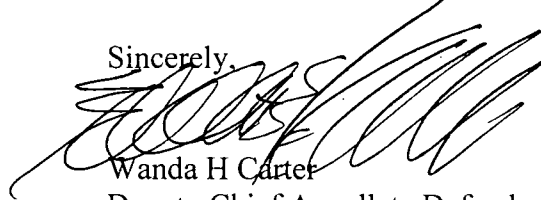
- 1.) State v. Moore, 377 S.C. 299, 659 S.E.2d 256 (2008) (holding that although the extended search of the defendant's truck exceeded the consent to search, a probable cause finding under the automobile exception cured the error; nonetheless, the propriety of the search in light of the truck's location on private property was raised as a reference in the case).
- 2.) State v. Weaver, 374 S.C. 313, 649 S.E.2d 479 (2007), (separate written opinion suggesting an analysis under a higher rather than a lesser expectation of privacy for warrantless searches of automobiles parked at private residences, particularly where the S.C. State Const. guarantees an increased Fourth Amendment protection (an express privacy right) under Article 1, section 10 via its "reasonable invasions of privacy" language).
- 3.) State v. Brown, 401 S.C. 82, 736 S.E.2d 263 (2013), reversed State v. Brown, 389 S.C. 473, 698 S.E.2d 811 (2010) (standard for state's burden of proof to establish inevitable discovery of evidence by inventory search was not reversed).
- 4.) State v. Cox, 290 S.C. 489, 351 S.E.2d 570 (1986) (vehicle was searched while parked on private property, but again, as in Moore, consent was given by the

owner for the search and therefore the impact of Article 1, section 10 of the S.C. State Const. was not addressed).

- 5.) Cody v. Dombrowski, 413 U.S. 433 (1973) (dissenting opinion on the warrantless search of a rented vehicle when there was no reasonable likelihood that the car would or could be moved and therefore the automobile exception was inapplicable).
- 6.) Florida v. Wells, 495 U.S. 1 (1990) (an inventory search must not be a ruse for rummaging in order to discover evidence).

Enclosed are five copies of this letter for distribution to the members of the Court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', written over a series of horizontal lines.

Wanda H Carter
Deputy Chief Appellate Defender

cc: Ben Aplin