

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Thomas A. Williams, Appellant,

v.

State of South Carolina, Respondent.

Appellate Case № 2016-000424

RECEIVED

MAY 03 2018

SC Court of Appeals

Appeal From Greenwood County
Donald B. Hocker, Circuit Court Judge

Unpublished Opinion № 2018-UP-166
Submitted March 1, 2018 - Filed April 18, 2018

Petition for Rehearing

Pursuant to Rule 221 of the South Carolina Appellate Court Appellate Court Rules
Thomas A. Williams, the Appellant above named, hereby Petitions this Court to rehear this
matter based upon the following grounds:

1. This Court in its order failed to consider the English grammar problems created in this statute. In the ruling, this Court has held that the dependent adverbial clause can modify itself which is contrary to normal English grammar rules. The phrase in the statute is redundant and awkwardly worded if it means, as this Court has ruled, that the “ traffic offense” committed while driving under the influence could in fact be driving under the influence.

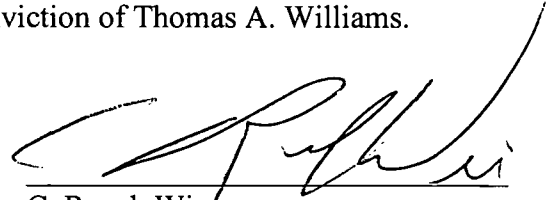
2. This Court failed to consider that had the legislature intended for driving under the influence to be the traffic offense which triggers the implied consent statute, then the legislature need only have said the implied consent is given “if the person is arrested for driving under the influence.” See Brief of Appellant at 4. If this Court gives meaning to all the words in the statute, as is required under our law, then the traffic offense has to be other than driving under the influence. As our Supreme Court has held, “a statute should be construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous... *Matter of Decker*, 322 S.C. 215,219, 471 S.E.2d 462, 463 (1995). The interpretation of the statute given by this Court, if the phrase “if arrested for an offense arising out of acts alleged to have been committed” includes an arrest for driving under the influence, the rest of the sentence, “while the person was driving a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs” becomes mere surplusage or superfluous. No rule of statutory construction permits any court to write off this dependant adverbial clause as unnecessary.

3. This Court ignored the proposition that the dependent adverbial clause modifies the previous verb “committed” and thus limits its application. As one court has said “The role of the subordinate clause is to modify the independent clause; thus the issue with regard to the meaning of ‘while’ is properly framed as how the ‘while’ clause modifies the [independent clause].” *ILHC of Eagan, LLC*. at 419-420. In our statute the only logical reading of the dependent adverbial clause, which includes all the words, is that it means the phrase “an offense arising out of acts” has to be an offense other than driving under the influence.

CONCLUSION

For the foregoing reasons this Court should rehear this matter, issue an opinion that gives meaning to all the words in the statute and reverse the conviction of Thomas A. Williams.

May ²~~1~~, 2018



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APPEAL FROM GREENWOOD COUNTY
Honorable Donald B. Hocker, Circuit Court Judge

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AFFIDAVIT OF SERVICE

PERSONALLY appeared before me Sandy Traynham who, after being duly sworn, deposes and says that she is the Secretary for C. Rauch Wise, Attorney for the Appellant in the above entitled case. That on May 2, 2018, she did deposit in the United States Mail with proper postage affixed thereto, a copy of the Petition for Rehearing in the above case addressed to Mark Reynolds Farthing, Office of the Attorney General, PO Box 11549, Columbia, SC 29211.

SWORN to and Subscribed

Sandy Traynham

before me this 2nd day

of May, 2018

C. R. [Signature] (L.S.)

Notary Public for South Carolina

My Commission expires: 12/7/2019

LAW OFFICE OF
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May 2, 2018

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Jenny Abbott Kitchings, Clerk
SC Court of Appeals
Calhoun Building
1220 Senate Street
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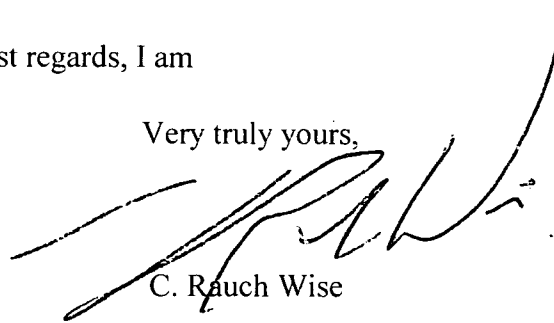
Re: Thomas Williams

Dear Ms. Kitchings:

I am enclosing herewith the original and six copies of the Petition for Rehearing together with the original Affidavit of Service regarding the above matter.

With kindest regards, I am

Very truly yours,



C. Rauch Wise

CRW/slt
Enclosure

cc Mark Reynolds Farthing
Robert Jamison Tinsley, Jr.