

**THE STATE OF SOUTH CAROLINA
In the Supreme Court**

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JUN 18 2018

S.C. SUPREME COURT

**CERTIORARI TO COURT OF APPEALS
Appeal from Greenwood County
Donald B. Hocker, Circuit Court Judge**

Appellate Case No. 2016-000424

**Unpublished Opinion No. 2018-UP-166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

Thomas A. Williams, Petitioner,

vs.

State of South Carolina, Respondent.

APPENDIX

**MARK REYNOLDS FARTHING
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CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

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AFFIRMED

Robert Jamison Tinsley, Jr., and Clarence Rauch Wise,
both of Greenwood, for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Mark Reynolds Farthing, both of
Columbia; and Solicitor David Matthew Stumbo, of
Greenwood, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: S.C. Code Ann. § 56-5-2950(A) (2018) ("A person who drives a motor
vehicle in this [s]tate is considered to have given consent to chemical tests of the

person's breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or the combination of alcohol and drugs, if arrested for an offense arising out of acts alleged to have been committed while the person was driving a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs."); *S.C. Dep't of Motor Vehicles v. Nelson*, 364 S.C. 514, 522, 613 S.E.2d 544, 548 (Ct. App. 2005) ("The implied consent laws are driven by public policy considerations. The State has a strong interest in maintaining safe highways and roads. One way to accomplish this goal is to enact laws directed at minimizing drunk driving."); *State v. Jansen*, 305 S.C. 320, 322, 408 S.E.2d 235, 237 (1991) ("[I]t is well established in this [s]tate that one who is arrested for DUI impliedly consents to a breathalyzer test, and that revocation of that consent is constitutionally admissible as prosecutorial evidence at the trial pursuant to that arrest."); *State v. Morgan*, 352 S.C. 359, 365, 574 S.E.2d 203, 206 (Ct. App. 2002) ("The cardinal rule of statutory construction is to ascertain and effectuate the legislative intent whenever possible."); *id.* at 365-66, 574 S.E.2d at 206 ("All rules of statutory construction are subservient to the one that legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in the light of the intended purpose of the statute.").

AFFIRMED.¹

HUFF, GEATHERS, and MCDONALD, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

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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.

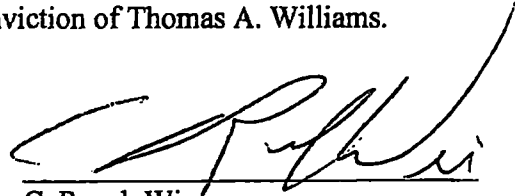
2. This Court failed to consider that had the legislature intended for driving under the influence to be the traffic offense which triggers the implied consent statute, then the legislature need only have said the implied consent is given "if the person is arrested for driving under the influence." See 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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The South Carolina Court of Appeals

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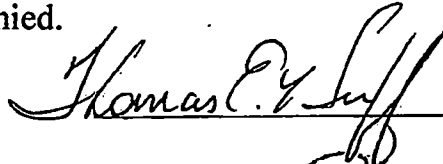
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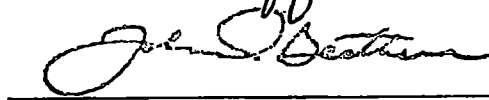
State of South Carolina, Respondent.

Appellate Case No. 2016-000424

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.


_____ J.


_____ J.


_____ J.

Columbia, South Carolina

cc: Alan McCrory Wilson, Esquire
Clarence Rauch Wise, Esquire
Mark Reynolds Farthing, Esquire
David Matthew Stumbo, Esquire
Robert Jamison Tinsley, Jr., Esquire
Chastity Copeland

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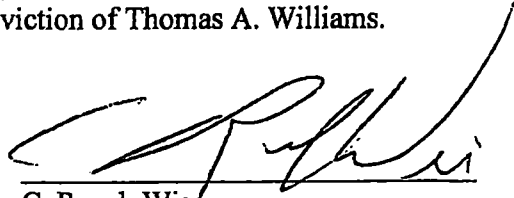
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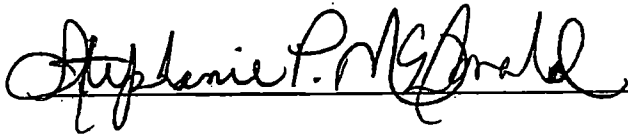
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