



**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

---

**APPEAL FROM YORK COUNTY  
Court of Common Pleas**

John C. Hayes, III, Circuit Court Judge

Case No.: 2011-CP-46-3645

---

**THE CITY OF ROCK HILL,  
Appellant,**

**v.**

**RONNIE PICKETT,  
Respondent.**

---

**APPELLANT'S FINAL BRIEF**

---

Christopher E. A. Barton  
and Paula Knox Brown  
201 E. Main Street, Third Floor  
Rock Hill, South Carolina 29730  
803-329-5641  
Attorneys for Appellant

Rock Hill, South Carolina  
July 2, 2013

## TABLE OF CONTENTS

TABLE OF CONTENTS.....	ii
TABLE OF AUTHORITIES.....	iii
STATEMENT OF THE ISSUE ON APPEAL.....	1
STATEMENT OF THE CASE.....	1
STATEMENT OF THE FACTS.....	2
ARGUMENT.....	3
CONCLUSION.....	4

TABLE OF AUTHORITIES

Cases

State v. Hoyle, 397 S.C. 622, 725 S.E.2d 720 (Ct.App. 2012).....3  
State v. Cannon, 260 S.C. 537, 197 S.E.2d 678.....3

Statutes and Constitutional Provisions

S.C. Code Ann. § 56-5-2933 (Supp. 2012).....3

## STATEMENT OF THE ISSUE ON APPEAL

- I. Whether the Circuit Court erred in reversing the lower court's decision and in dismissing the Respondent's Driving with an Unlawful Alcohol Concentration charge where the reason for the reversal and dismissal was that the officer's recitation of Miranda warnings was insufficient and that it violated Section 56-5-2953 of the South Carolina Code of Laws.

## STATEMENT OF THE CASE

Defendant Ronnie Pickett moved unsuccessfully prior to his bench trial on September 12, 2011, before the Honorable Jane P. Modla of the City of Rock Hill Municipal Court to have the evidence in the case suppressed and/or to have the case dismissed because the Miranda warnings given on the in-car videotape did not include a specific statement that the defendant had the right to terminate questioning at any time. (R. pp. 17-18) The City filed a reply to the motion to suppress and/or to have the case dismissed. (R. pp. 2-16) He was convicted following a bench trial of Driving with an Unlawful Alcohol Concentration (DUAC). (R. p. 21)

The Defendant appealed the case to the Sixteenth Circuit Court of Common Pleas. The Honorable John C. Hayes, III, presided over the appeal hearing on January 18, 2012. The written order was issued on January 30, 2012. The lower court's judgment was reversed and the Defendant's DUAC charge was dismissed. (R. pp. 39-41)

## STATEMENT OF THE FACTS

On February 26, 2011 at approximately 12:27 a.m., Officer Rowe of the City of Rock Hill Police Department observed a 1999 Dodge Ram truck being operated by Ronnie Pickett without an operating driver's side headlight. Officer Rowe conducted a routine traffic stop. Noting that the Mr. Pickett's eyes were glassy and bloodshot and that an odor of alcoholic beverage was coming from Mr. Pickett's person, Officer Rowe asked Mr. Pickett to perform field sobriety tests. Mr. Pickett's performance was noted and he was placed under arrest.

Officer Rowe read Miranda warnings to the defendant as follows:

You have the right to remain silent. Anything you say may be used against you in court. You have the right to have a lawyer and consult with him before and while answering any questions. And if you cannot afford a lawyer, one will be appointed for you without cost.

Mr. Pickett acknowledged that he understood his Miranda advisement. He was driven to the City of Rock Hill Police Department where the Datamaster test was administered. Mr. Pickett's blood alcohol content registered at 0.15%. He was charged with Driving with an Unlawful Alcohol Concentration (DUAC). (R. pp. 2-3); (R. p. 21) and (R. p 39)

## ARGUMENT

This issue has been resolved by the Court of Appeal's decision in State v. Hoyle, 397 S.C. 622, 725 S.E.2d 720 (Ct.App. 2012). There the South Carolina Court of Appeals stated that the South Carolina Supreme Court's opinion in State v. Cannon, 260 S.C. 537, 197 S.E.2d 678 (1973) is the controlling precedent on this issue. Cannon states that the required Miranda warnings are as follows:

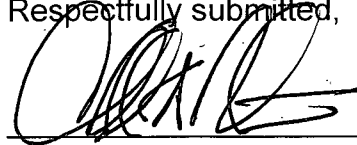
You have the right to remain silent; anything you say can and will be used against you in a court of law; you have the right to talk to a lawyer and have him present with you while you are being questioned; if you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish one. Id. At 542-543.

Hoyle states that "[t]he language in Miranda is clear that the right to terminate the interrogation at any time and to not answer any further questions is not a required Miranda warning. Miranda only requires four warnings, and the United States Supreme Court did not include the right to terminate the interrogation at any time as one of the four warnings." State v. Hoyle, 397 S.C. 622, 725 S.E.2d 720, 723 (Ct.App. 2012). As long as the officer gave all four required warnings, he has "fully complied with both Miranda and section 56-5-2933". Id. at 724. Officer Rowe did so in this case. (R. p. 20 and 39)

CONCLUSION

The Circuit Court erred in reversing Mr. Pickett's conviction in the lower court.  
Mr. Pickett's DUAC charge should not have been dismissed.

Respectfully submitted,



---

Christopher E. A. Barton  
and Paula Knox Brown  
201 E. Main Street, Third Floor  
Rock Hill, South Carolina 29730  
803-329-5641  
Attorneys for Appellant

Rock Hill, South Carolina  
July 2, 2013

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

**APPEAL FROM YORK COUNTY  
Court of Common Pleas**

John C. Hayes, III, Circuit Court Judge

Case No.: 2011-CP-46-3645

**THE CITY OF ROCK HILL,  
Appellant,**

v.

**RONNIE PICKETT,  
Respondent.**

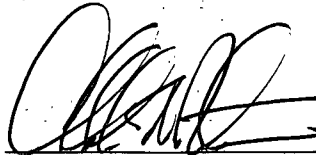
**RECEIVED**

JUL 05 2013

**SC Court of Appeals**

**CERTIFICATE OF COUNSEL**

The undersigned attorney hereby certifies that the Final Brief of Appellant complies with South Carolina Appellate Court Rule 211(b) and the only changes made were obvious typographical errors; misspellings and ensuring accurate references to the Record on Appeal.



Christopher E. A. Barton  
Senior City Solicitor  
201 E. Main Street, Suite 300  
Rock Hill, South Carolina 29730  
(803) 329-5619  
Attorney for Appellant

This 2<sup>nd</sup> day of July, 2013  
Rock Hill, South Carolina

**THE STATE OF SOUTH CAROLINA,  
In the Court of Appeals**

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No.: 2011-CP-46-3645

---

**THE CITY OF ROCK HILL,  
Appellant,**

v.

**RONNIE PICKETT,  
Respondent.**

---

CERTIFICATE OF SERVICE

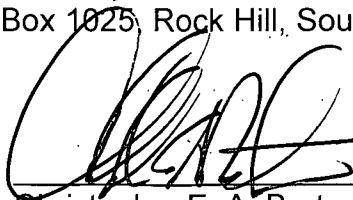
---

**RECEIVED**

JUL 05 2013

**SC Court of Appeals**

The undersigned attorney hereby certifies pursuant to the South Carolina Appellate Court Rules that a copy of Appellant's Final Brief in the above captioned case has been served upon Respondent by depositing a copy of same in the regular U.S. Mail on the 3<sup>rd</sup> day of July, 2013, to Michael L. Brown, Jr., Attorney for Respondent, 223 Main Street, Suite 550, Post Office Box 1025, Rock Hill, South Carolina 29731.



---

Christopher E. A. Barton  
Senior City Solicitor  
201 E. Main Street, Suite 300  
Rock Hill, South Carolina 29730  
(803) 329-5619  
Attorney for Appellant