

STATE OF SOUTH CAROLINA  
COUNTY OF YORK  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
CASE NO: 2010CP4603355

South Carolina State Of vs. Carl B Sullivan

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a),  
SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other:
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other: \_\_\_\_\_

IT IS ORDERED AND ADJUDGED:  See attached order;  Statement of Judgment by the Court:

**ORDER**

Dated at York, South Carolina, this 23rd day of May, 2011.

Court Reporter:

s/ JOHN C. HAYES, III.

**PRESIDING JUDGE - JOHN C. HAYES, III.**

This judgment was entered on the 25th day of May, 2011, and a copy mailed first class this 25th day of May, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Matthew Shelton York County Solicitor's  
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ATTORNEY(S) FOR THE PLAINTIFF(S)

Michael F. Brown Jr PO Box 1025 Rock Hill,  
SC 29731

ATTORNEY(S) FOR THE DEFENDANT(S)

**David Hamilton**

David Hamilton - Clerk of Court

SCRPC APP-24/FORM 4



(1)(a) The video recording at the incident site must:

- (i) not begin later than the activation of the officer's blue lights;
- (ii) include any field sobriety tests administered; and
- (iii) include the arrest of a person for a violation of Section 56-5-2930 or Section 56-5-2933, or a probable cause determination in that the person violated Section 56-5-2945, and show the person being advised of his Miranda rights.

The word video has several meanings, but all relate to the visual. (The Farlex Dictionary; [www.thefreedictionary.com](http://www.thefreedictionary.com)). Visual relates to the sense of sight (The Farlex Dictionary, supra). A videotape is a relatively wide magnetic tape used to record visual images and associated sound for subsequent playback or broadcasting or is a recording made on such a tape. (The Farlex Dictionary; supra). The word show means "something that one views or at what one looks and at the same time hears." Black's Law Dictionary Sixth Edition, p. 1379.

The cardinal rule of statutory construction is to ascertain and effectuate the legislative intent whenever possible. State v. Morgan, 352 S.C. 359, 574 S.E.2d 203 (Ct. App. 2002) (citing State v. Baucorn, 340 S.C. 339, 531 S.E.2d 922 (2000)). The Court does not consider merely the language of the particular clause being constructed but the word and its meaning in conjunction with the purpose of the whole statute and the policy of the law. Whitner v. State, 328 S.C. 1, 492 S.E.2d 777 (1997). The statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers. City of Camden v. Brassell, 326 S.C. 556, 486 S.E.2d 492 (Ct. App. 1997).

The legislation is clear. The breath site video must show (depict) the subject being given their Miranda warnings.

Jett #2

In the instant case the arresting officer failed to comply with the requirement of Section 56-5-2953. There is nothing in the record to suggest that any of Section 56-5-2953 (B) applies.

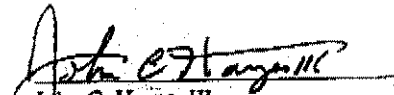
The Court finds the Magistrate's Court erred in failing to grant appellant's motion to dismiss the instant charge based on the Trooper's failure to comply with Section 56-5-2953.

Section 56-5-2953 has had a tortured history. Initially enacted in 1998, it has been amended several times. The 2009 amendment applies in the instant case.

In this case there has been a violation of Section 56-5-2953(A) and there is no evidence of a Section 56-5-2953 (B) exception. Therefore, pursuant to City of Rock Hill v. Suchenski, 374 S.C. 12, 646 S.E.2d 879 (Sup.Ct. 2002), the appropriate remedy for the violation of section (A) is dismissal of the charge.

Therefore, the ruling by the Magistrate Judge is reversed and the charge in the instant case, ticket number E010425, is dismissed with prejudice.

IT IS SO ORDERED.

  
John C. Hayes, III  
Presiding Judge #3

May 23 2011  
York, South Carolina.

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