

1979 WL 43602 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 20, 1979

*1 Thomas O. Lawton, Jr., Esquire
Attorney at Law
Post Office Box 646
Allendale, South Carolina 29810

Dear Mr. Lawton:

In a letter to this Office you asked whether or not a police officer is acting within his authority if based on the personal knowledge of the officer that an individual's license has been recently suspended, he stops an individual while driving to determine if this individual is still under suspension. You also asked if in the event the individual is still under suspension does the stopping of the individual by the officer based on 'personal knowledge' give 'probable cause' to constitute an arrest.

In the recent case of State of Delaware v. Prouse, 24 Cr.L. 3079, decided March 27, 1979, the United States Supreme Court held that:

'... except in those situations in which there is at least articulable and reasonable suspicion that a motorist is unlicensed or that an automobile is not registered, or that either the vehicle or an occupant is otherwise subject to seizure for violation of law, stopping an automobile and detaining the driver in order to check his drivers license and the registration of the automobile are unreasonable under the Fourth Amendment We hold . . . that persons in automobiles on public roadways may not for that reason alone have their travel and privacy interfered with at the unbridled discretion of police officers.' 24 Cr.L. at 3083.

With reference to such case, it appears that under the circumstances above described, an officer with such personal knowledge would be justified in stopping an individual to determine if in fact he is still under suspension. Arguably such knowledge would be 'articulable and reasonable suspicion' as referenced in Prouse.

Therefore, it appears that in the situation as above described, if the individual who was stopped pursuant to such knowledge of the officer is unable to produce a drivers license and upon further checking it is determined that the license is still under suspension, an arrest for driving under suspension would be appropriate. The fact that the stop was originally premised on the officer's own personal knowledge would not taint the arrest.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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