

1976 WL 30514 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
August 5, 1976

***1 RE: Application of Section 46-287 of the 1962 Code of Laws of South Carolina**

Colonel P. F. Thompson
Director of Law Enforcement
SCHD

QUESTION PRESENTED:

Is a violation of Section 46-287 an appropriate charge in the circumstances specified?

STATUTE INVOLVED:

'Section 46-287, Obedience to Police Officers. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic.'

DISCUSSION OF ISSUE:

You have requested an opinion from this Office as to the application of Section 46-287 of the 1962 Code of Laws of South Carolina, as it relates to a specified traffic situation. As I understand the facts, a Highway Patrolman stopped a motorist for investigation of driving under the influence (Section 46-343) after which investigation the motorist was placed under arrest and charged with driving under the influence of intoxicants. Other occupants of the vehicle protested the arrest and after being instructed by the officer to remain seated in the vehicle disobeyed the officer's instructions, disembarked, and followed the officer and arrestee onto the highway protesting the arrest, thereby creating a potential pedestrian hazard to the motoring public.

In the situation described above, the Highway Patrolman was engaged in the enforcement of the State's traffic laws, specifically, the arrest of a driver for violation of Section 46-343. He was, with lawful authority, engaged in the control and regulation of traffic on a public highway. In the course of his duties, he accordingly directed the occupants of the subject motor vehicle to remain seated therein. Thereafter, the occupants disembarked from the vehicle and proceeded onto the highway in willful violation of the officer's lawful order. Whereas Section 46-287 makes it unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of a traffic officer, it appears that the conduct of the occupants described above falls within that generally prohibited by the aforementioned statute.

CONCLUSION:

Therefore, it is the opinion of this Office that under the facts as related above it would be appropriate to charge a violation of Section 46-287.

Richard P. Wilson
Assistant Attorney General

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