

1976 WL 30426 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 14, 1976

*1 Corporal M. K. Alessandro
South Carolina Highway Patrol
District No. 1
P. O. Box 187
Bishopville, South Carolina 29010

Dear Corporal Alessandro:

This is in response to our telephone conversation of April 12, concerning jury arguments in first offense DUI cases.

After having discussed the matter with several of the attorneys in the office, we have come to the conclusion that it would be improper to argue in summation the fact that a defendant if found guilty might receive a provisional license. Normally, it is improper for the State to argue sentence in front of the jury. The fact that a defendant may receive a slight or lesser penalty than anticipated can have prejudicial affects upon the jury, as it tends to disguise the main issue, namely, guilt or innocence.

This is not to say that if the defense in its summation brings up the matter of a provisional license that the State would be precluded from so arguing. I cannot really see this situation happening though as the defense would probably harp upon the 'extremely harsh sentence' that could be imposed were the defendant found guilty.

I hope this answers your question and if you need further clarification or any assistance, please do not hesitate to call upon me.

Very truly yours,

Cameron B. Littlejohn, Jr.
Staff Attorney

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