

STATEMENT OF LEGAL ISSUES

I

WHETHER THE LANGUAGE “DURING THE COMMISSION OF A FELONY” UNDER SDCL § 22-16-15(1), IS IMPERMISSIBLY PREJUDICIAL WHEN REFERRING TO THE CRIME OF DRIVING UNDER THE INFLUENCE.

The trial court held that because the Driving Under the Influence charge was alleged to be a third offense, it was proper to include that language.

State v. Bacon, 286 N.W.2d 331 (S.D. 1979)

State v. Steffenson, 178 N.W.2d 561 (S.D. 1970)

SDCL § 22-16-15(1)

SDCL § 32-23-4.3

SDCL § 32-23-4.4

II

WHETHER IT WAS IMPROPER TO ALLOW OFFICER BRIAN CROZIER’S TESTIMONY RELATED TO KINECTIC ENERGY.

The trial court ruled that the testimony was admissible, finding that it was relevant and not unfairly prejudicial or lacking foundation.

State v. Guthrie, 2001 SD 61, 627 N.W.2d 401

State v. Holzer, 2000 SD 75, 611 N.W.2d 647

Daubert v. Merrell Dow Pharmaceuticals, 509 U.S. 579 (1993)

SDCL § 19-12-1

SDCL § 19-12-3

SDCL § 19-15-2