

#23167

STATEMENT OF LEGAL ISSUES

I.

IS OFFICER HARRISON ENTITLED TO A COMMON LAW PRIVILEGE, CODIFIED AT SDCL § 22-18-2, PROTECTING HIM FROM YELLOW BOY'S CLAIMS FOR ASSAULT AND BATTERY?

The trial court held that Officer Harrison was not entitled to a privilege protecting him from Yellow Boy's claims for assault and battery. SDCL § 22-18-2. Swedlund v. Foster, 2003 SD 8, 657 N.W.2d 39.

II.

IS OFFICER HARRISON ENTITLED TO QUALIFIED IMMUNITY PROTECTING HIM FROM YELLOW BOY'S CLAIM FOR CIVIL RIGHTS VIOLATIONS?

The trial court held that Officer Harrison was not entitled to qualified immunity protecting him from Yellow Boy's claim for civil rights violations. Graham v. Connor, 490 U.S. 386, 102 S.Ct. 1865, 104 L.Ed.2d 433 (1989). Saucier v. Katz, 533 U.S. 194, 121 S.Ct. 2151, 150 L.Ed.2d 272 (2001). Horne v. Crozier, 1997 SD 65, 565 N.W.2d 50.