

22655

STATEMENT OF THE ISSUES

1. Where South Dakota law dictates only that drivers remain on the right half of the roadway, is crossing the fog line on the right side of the driving lane a traffic violation that justifies a vehicle stop?

The trial court held that crossing the right-hand fog line is a traffic violation that justifies a traffic stop.

2. Where no dangling object appears in the video of the traffic stop, no dangling object was confiscated and taken into evidence, no photograph was taken of any dangling object, the driver was allowed to resume his position behind the wheel of the vehicle and drive off without removal of any dangling object, and the trooper's sworn testimony on several different occasions is inconsistent as to the dangling object, is the evidence sufficient to justify a traffic stop based on the alleged presence of a dangling object?

The trial court held that sufficient evidence existed to establish the presence of a dangling object that justified the traffic stop.

3. Under State v. Ballard, 2000 S.D. 134, 617 N.W.2d 837, can an officer continue to detain a vehicle and its occupants after the trooper tells the driver he will "get him on down the road"?

The trial court held that the extended detention of the vehicle and its occupants after the trooper said he would get the driver "on down the road" was consistent with the holding in Ballard.

4. Does a passenger in a vehicle who claims ownership of property in the vehicle and shows the trooper exactly where to find the property have a legitimate expectation of privacy sufficient to confer standing to challenge the driver's consent?

The trial court held that, although the consent given by the driver was involuntary, the passenger, Wilson, had no standing to challenge the giving of that consent.