

# State of South Carolina



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## SCARLETT A. WILSON

*Solicitor, Ninth Judicial Circuit*

To Whom It May Concern:

In response to the February 21, 2014 Letter from members of the South Carolina Association of Criminal Defense Lawyers to the South Carolina Attorney General, I offer the following observations:

You will note that the president of SCACDL opens his letter in defense of Justice Beatty, who made unfortunate remarks last year. It was not an easy thing to call attention to non-judicious behavior of a justice who decides our cases. Like 12 other Solicitors, I was forced to seek legal protection for all victims whose cases are decided by our Supreme Court. Victims deserve to rest assured that when issues are raised in their cases, they will get a fair hearing by all of our justices. We are duty bound to defend the hundreds of lawyers that work for us. Our employees must have confidence that we will not stand idle while they are wrongfully ridiculed. I expected retaliation by some who are anti-law enforcement and that retaliation has begun.

For the record, none of us has a problem with being lectured about the ills of prosecutorial misconduct. None of us has a problem with prosecutors who deserve to be disciplined, being punished. Our problem is with the remarks of a justice that: (1) publicly discussed and mischaracterized a matter pending before his Court, (2) issued, in essence, an advisory opinion as to how the Court would rule on future legislation likely to come before the Court, and (3) proclaimed that a perfectly legitimate, constitutional argument is no longer available to victims and law enforcement who have their cases heard by the Court. These are the real problems. These are our chief concerns. The comments were inappropriate; so inappropriate that three other Justices called various Solicitors to apologize for them.

I did not go to the media with my concerns about Justice Beatty. In fact, the first newspaper/television calls I received came only after a small group within SCACDL issued a ridiculous press release, despite the fact that they did not hear Justice Beatty's remarks and apparently did not read the detailed summary of them. I declined numerous requests for interviews and commented only briefly regarding my complaint and the Attorney General's thoughtful, supportive analysis of our claims. I chose to be professional, not political. The place to deal with these issues was in court.

Once again, a few members of SCACDL, have contacted the media and weighed-in on specific cases about which they only have limited information-- at the behest of an Assistant Public Defender (APD) with a petty personal grudge, and despite the fact that the Chief Public Defender Ashley Pennington does not support this attack. The APD and a small group of

criminal defense attorneys, almost all of whom do not practice law in this Circuit, have now chosen to attack me politically because efforts on the merits have failed.

This small group from SCACDL has reached back nearly a decade and plucked 9 cases out of the roughly 150,000 warrants that we handled, about 750 of which were called to trial. While I am familiar with most of the cases cited in the purported SCACDL letter, I did not personally prosecute any of them and there are two that were resolved before I became Solicitor. As you might imagine, the facts are in dispute.

The allegations fall into roughly two groups. The first group involves allegations arising in 2008 and before. Two claims were first made in 2005. Each involves young assistant solicitors at the dawn of their careers. Three of the prosecutors in the named cases have moved on to the Department of Justice and private practice and are not immediately available to refresh my recollection. Despite not being directly involved in these cases, I can report that all of them have had these issues raised in court. We have responded in court and we have otherwise addressed the situations as we should have. None of the judges who actually knew and experienced these cases, who actually lived and presided over them, has *ever* made a finding of prosecutorial misconduct.

The three more recent cases involve the view of these few lawyers that (1) my prosecutors should not have sought a hearing in a Castle Doctrine case (despite our having followed the Supreme Court's recently established procedure), (2) I "disparaged" defense counsel (read: hurt their feelings) by highlighting the fact that *a trial* revealed information that we did not previously know, and (3) I am unethical for making general comments to the media about the rampant problem of witness intimidation during a murder case while jurors already were deliberating and already had been repeatedly instructed not to expose themselves to the news (no jurors were exposed to the story).

While we push hard for justice through vigorous prosecution, we do so in a reasonable, honest and efficient manner. Both prosecutors and defense attorneys zealously represent their party's interests and from time to time, we have heated disagreements. This is a natural part of our adversarial system. My office aims to strike hard blows, not foul ones. Prosecutors who attempt to "win at all costs" seriously undermine our entire justice system and have no place in the Ninth Circuit Solicitor's Office. Prosecution is a tough business and I am not going to cower in fear of offending some misguided criminal defense lawyers.

I welcome an investigation by the Attorney General. I will make all employees and files in my office available and will encourage the three attorneys who are no longer with us to cooperate, as well. In the meantime, I hope the media and the public will consider the source of the purported SCACDL letter and will understand there is more to each case than what these defense lawyers have presented.

Sincerely,



Scarlett A. Wilson  
Ninth Circuit Solicitor