

1997

State v. Carruth : Unknown

Utah Court of Appeals

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Unknown.

Unknown.

Utah Supreme Court Attn: Pat Bartholomew 451 South State, 5th Floor Scott M. Matheson
Courthouse Salt Lake City, Utah 84111

MARGARET LINDSAY Aldrich, Nelson, Weight & Esplin 43 East 200 North P.O. Box "L" Provo,
Utah 84603

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STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL

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UTAH SUPREME COURT
BRIEF



JAN GRAHAM
ATTORNEY GENERAL

CAROL CLAWSON
Solicitor General

REED RICHARDS
Chief Deputy Attorney General

PALMER DEPAULIS
Chief of Staff

22 April 1999

Utah Supreme Court
Attn: Pat Bartholomew
451 South State, 5th Floor
Scott M. Matheson Courthouse
Salt Lake City, Utah 84111

Subject: **Supplemental authority for *State v. Carruth*, No. 970597**

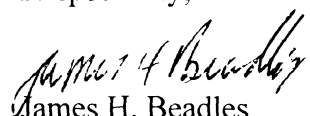
Dear Ms. Bartholomew:

Pursuant to rule 24(h), Utah Rules of Appellate Procedure, this letter is filed as supplemental authority to questions raised at oral argument on 5 April 1999.

The Court asked whether it had issued any decision since *State v. Baker*, 671 P.2d 152 (Utah 1983) that addressed, in non-dicta, the test for prosecution-requested lesser offense instructions. Counsel for the State has used Westlaw's KeyCite service, which showed 55 citations to *Baker*. Of those citations from this Court, however, none dealt with a case like *Carruth*, i.e., a prosecution request for a lesser-included offense instruction. Instead, decisions from this Court that have cited *Baker* either discussed defense requests for lesser-included offense instructions or double jeopardy/merger issues.

Please deliver a copy of this letter to the Court. Thank you.

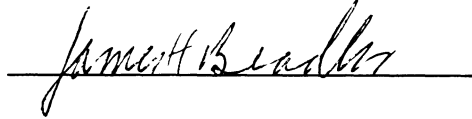
Respectfully,


James H. Beadles
Assistant Attorney General

CERTIFICATE OF MAILING

On 22 April 1999, I mailed, by U.S. Mail, postage prepaid, a copy of this letter to:

MARGARET LINDSAY
Aldrich, Nelson, Weight & Esplin
43 East 200 North
P.O. Box "L"
Provo, Utah 84603

A handwritten signature in cursive script, reading "James H. Beadler", is written over a solid horizontal line.