

1988

## State of Utah v. Wesley Allen Tuttle : Unknown

Utah Supreme Court

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UTAH SUPREME COURT

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DOCKET NO. 1986 20068

November 10, 1988

Geoffrey Butler  
Clerk, Utah Supreme Court  
332 State Capitol Building  
Salt Lake City, Utah 84114

Re: State v. Wesley Tuttle  
Case No. 20068

Dear Geoff:

Pursuant to the provisions of 24(j) R. Utah S. Ct., appellant provides the Court with significant and pertinent authorities as more fully set forth below.

In Walvrun v. State, 336 S.E.2d 798, 803-804 (Geo. Dec. 1985), the Supreme Court of Georgia aligned itself with those jurisdictions holding hypnotically refreshed recall to be inadmissible in the State of Georgia. This has specific relevance to page 21 of Appellant's Brief and pages 6-11 of Reply Brief of Appellant, and specifically contradicts the State's position and alignment of Georgia with other jurisdictions as referenced at page 23 of Brief of Respondent.

In Alsbach v. Badar, 700 S.W.2d 823, 824-830 (Mo. banc Dec. 1985), specifically adopted the Frye test for the admissibility of hypnotic recall and concluded that hypnosis was too unreliable. This has specific significance to Brief of Appellant, page 21 as well as Appellant's Reply Brief, pages 11-13.

The Oklahoma Supreme Court followed the other and majority position indicating that hypnotic recall is inadmissible in Harmer v. State, 700 P.2d 212 (Ok. 1985) which has general significance to footnote 1 at page 21 of Appellant's Brief.

An original and nine copies of this letter are provided to you pursuant to the above cited rule.

Respectfully submitted,

  
KENNETH R. BROWN

KRB:gp

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