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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

July 1, 2002

The Honorable Walter H. Sanders, Jr.
Municipal Court Judge
Town of Fairfax
P.O. Box 840
Fairfax, South Carolina 29827

**Re: Your Letter of April 16, 2002
Restraining Orders in Municipal Court**

Dear Judge Sanders:

In your above referenced letter, you indicate that you "... need to know under what circumstances a Municipal Court Judge can issue a Restraining Order." You also indicate that "[i]t is your understanding that Municipal Court Judges have no authority or limited authority to issue Restraining Orders."

As you know, S.C. Code Ann. §14-25-45 provides that Municipal Courts have "... all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates." That Section also provides, however, that Municipal Courts "...shall have no jurisdiction in civil matters." Therefore, it would appear that, in order for a Municipal Court to have subject matter jurisdiction to issue any order, that order must be issued in conjunction with the court's criminal jurisdiction. See OP. ATTY. GEN. DATED APRIL 2, 1997. A Municipal Court's subject matter jurisdiction over a criminal matter is obtained through the issuance of an arrest warrant or uniform traffic ticket. State v. Fennell, 263 S.C. 216, 209 S.E.2d 433 (1974)

While a Municipal Court may not have the jurisdiction to issue Restraining Orders outside of its criminal jurisdiction, there are times following the issuance of an arrest warrant when a Municipal Court can properly place restraints on particular defendants. For example, in a previous opinion, we stated that a municipal judge would have the authority to restrain or enjoin a criminal defendant from participating in certain actions as a condition of that defendant's bond. See OP. ATTY. GEN. DATED SEPTEMBER 29, 1988. Further, municipal judges are authorized to suspend sentences upon terms and conditions they deem appropriate. See OP. ATTY. GEN. DATED FEBRUARY 27, 1990. It seems, therefore, that a Municipal Court may appropriately place

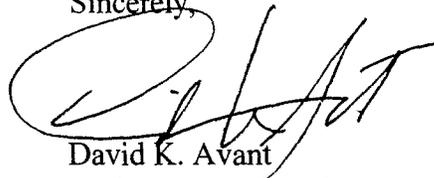
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reasonable restraints upon defendants as a condition of a suspended sentence.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. K. Avant', written over a large, loopy flourish.

David K. Avant
Assistant Attorney General